

CASE No.

252

SOUTHERN DISTRICT

LA COLETA GRANT

DANIEL HILL

CLAIMANT

252

252

D.

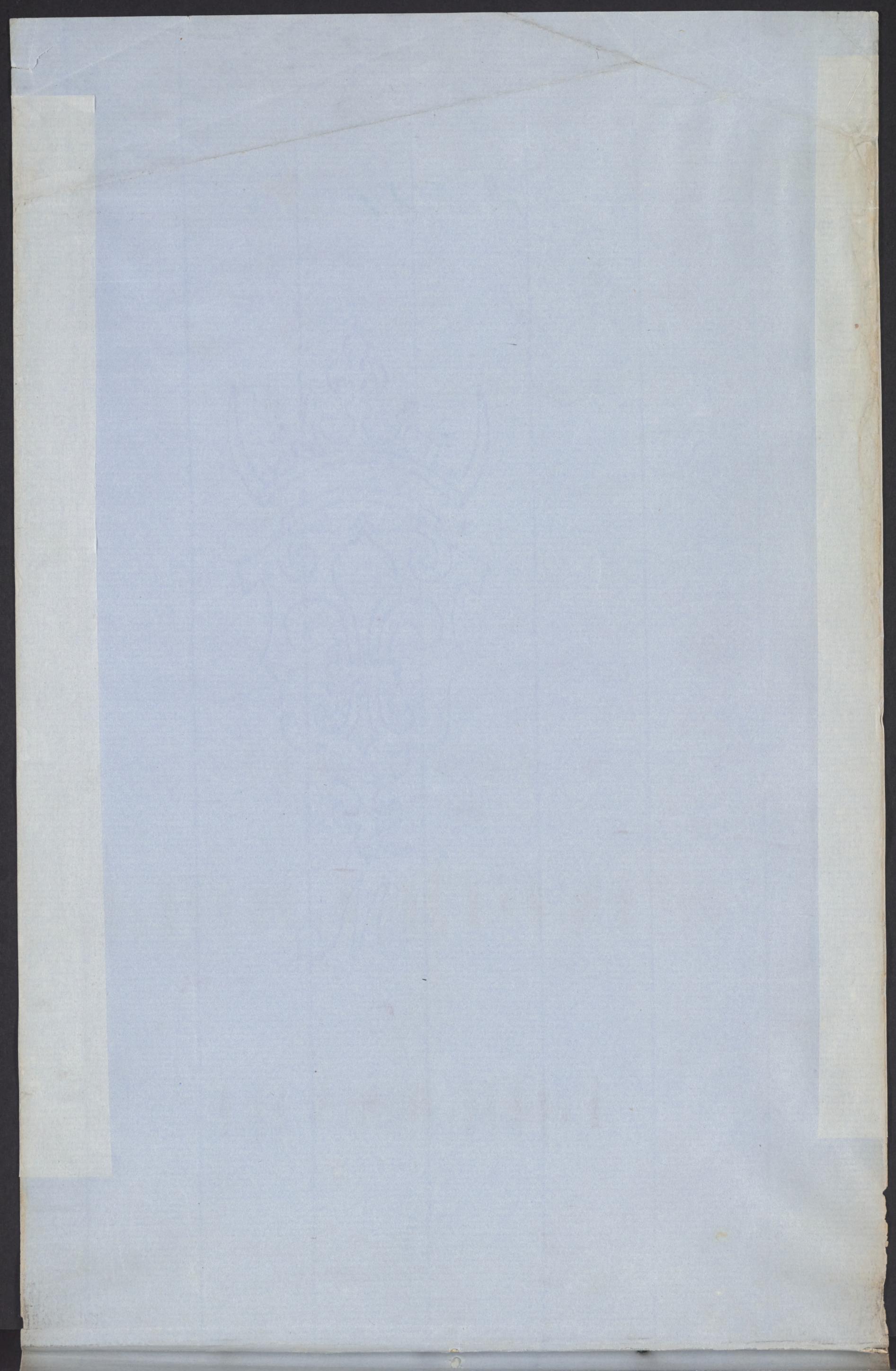
MAR 15 1963

LAND CASE 252 SD 156 pgs.

Remington
POWER BOND
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U.S.A.



10 - 520



TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 520.

Daniel Hill

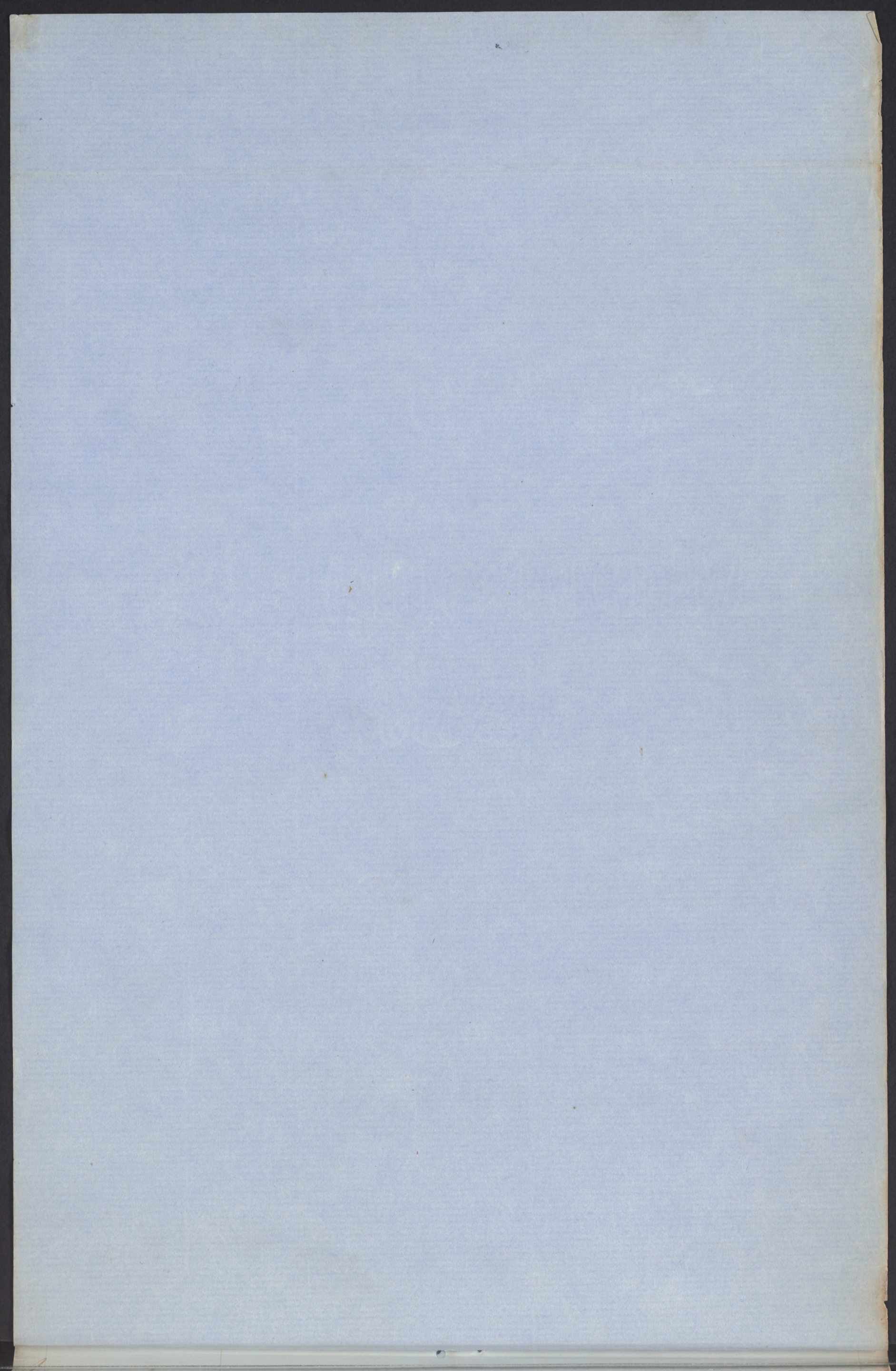
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"La Golata"



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this nineteenth day of January, Anno Domini One Thousand Eight Hundred and Fifty-three, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of Daniel Hill.

for the Place named
"La Goleta."
was presented, and ordered to be filed and docketed with No. 520 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

San Francisco, September 29th 1853.
In case no. 520, Daniel Hill for the place named "La Goleta," the deposition of W^m E. P. Hartwell, a witness in behalf of the claimant, taken before Commissioner Alpheus Felch, with document marked A. F. No. 1 & 2, annexed thereto, was filed;

(Vide page 5 of this Transcript.)

San Francisco October 14th 1853.
In the same case the deposition of Isaac J. Sparks, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed;

(Vide page 6 of this Transcript.)

San Francisco, February 19th 1854.
In the same case the deposition of Pedro C. Carrillo, a witness in behalf of the claimant, taken before Commissioner R. Aug. Thompson, was filed;

(Vide page 7 of this Transcript.)

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San Francisco December 5th 1854,
Case no 520 was ordered to be placed at the foot
of the 3rd Clap Cases on the Trial Docket.

San Francisco December 19th 1854,
Case no. 520 was submitted under the Rule of March
21st 1854 and taken under advisement by the
Board.

San Francisco December 26th 1854,
In the same case Commissioner Alpheus Felch delivered
the opinion of the Board confirming the claim,
(Vide page 31 of this Transcript)
and the following order was made to wit,
(Vide page 34 of this Transcript)

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To the Board of Commissioners for ascertaining and settling Private Land Claims in the State of California.

Petition.

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Your petitioner Daniel Hill of the County of Santa Barbara in the State of California represents to your Honorable Board that he claims a tract of Land called La Goteta containing One Sitio de ganado Mayor or one square league of grazing Land situated in the County of Santa Barbara in said State of California, that he claims the same in fee by virtue of a grant made to him under the authority of the Mexican Government by Pio Pico Constitutional Governor of the Department of California bearing date the tenth of June Eighteen hundred and forty six.

Your petitioner presents herewith the Original grant of said Land with the English translation thereof and will make further proof of title if required by the board.

Your petitioner prays your honorable Board to take into consideration his claim to said tract of Land decree his title to be valid and confirm the same.

A. Hubert

Atty for Petitioner

Filed in Office June 19th 1853

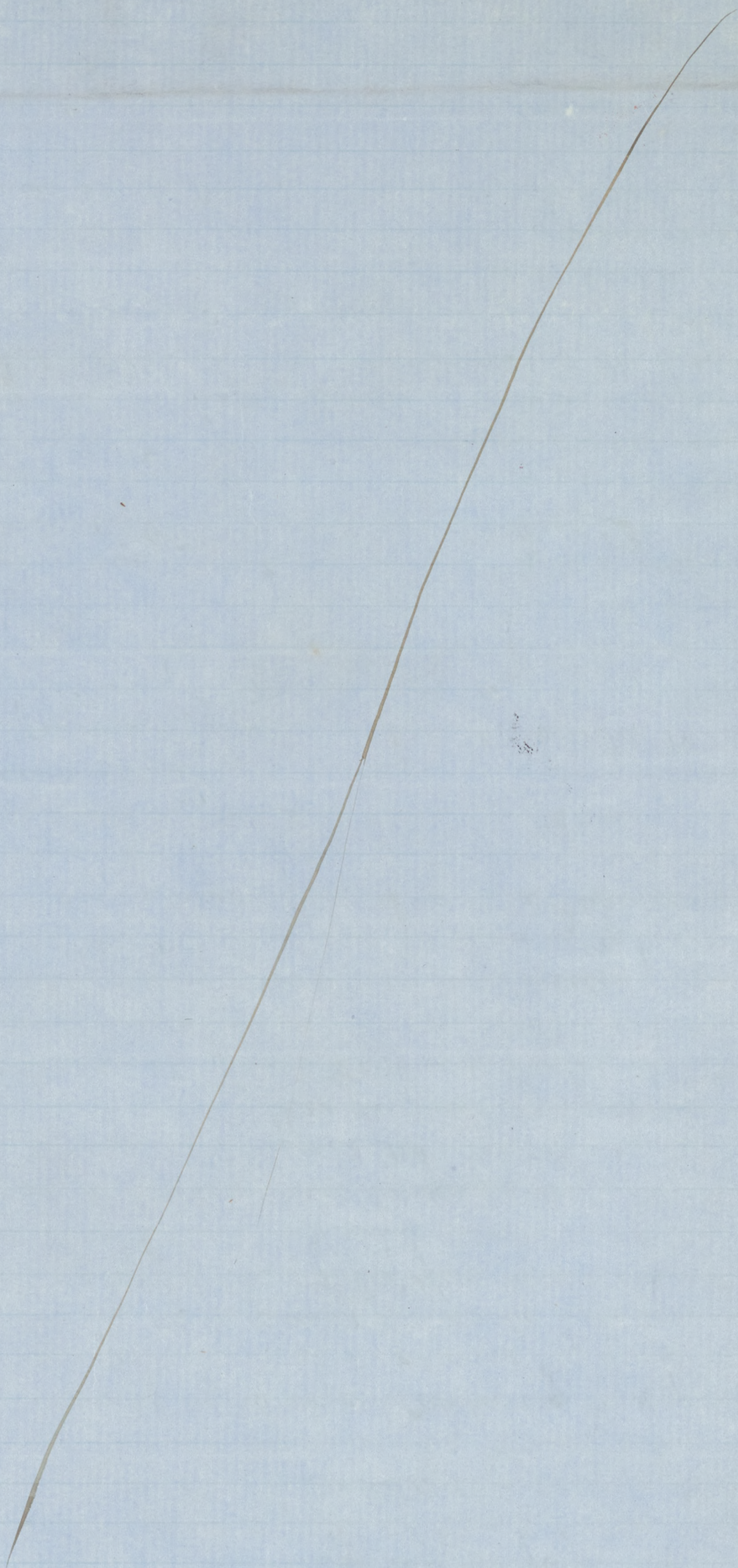
Geo. Fisher Secy

Recorded in Vol 1 of Petitions on page 488

Geo. Fisher
Secy

X

4



5-10-5 All right

5 Deposition of Office of the Board of U.S. Land Commissioners
W. E. P. Hartness to &c. &c.

This day before Commissioner Alpheus Felch came Wm E P Hartness a witness on behalf of Claimant David Hill No. 530 who after being sworn deposed as follows -

Question by Mr. Herbert Attorney for Claimant

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1. Question. What are your name age and place of residence

Answer. My name is William E. P. Hartness my age fifty four years and I reside at Monterey California

2. Question. Look on the paper now presented to you marked "Exhibit No 1" with the initials "A. F." annexed to this deposition and purporting to be a grant from Governor Pio Pico to Daniel Hill dated June 10. 1846. and state whether you are acquainted with the hand writing of Pio Pico and Jose Mateos Moreno and if yes whether their signatures appearing on said document are genuine?

Answer. I have examined said document. The signatures appearing thereon are the genuine signatures of said Pico and Moreno respectively. I am acquainted with the hand writing.

3. Question. Look on the document now presented to you marked "Exhibit No. 2" with the initials "A. F." annexed to this deposition, purporting to be papers relating to the land described in the before mentioned grant - and state whether you are acquainted with the signatures and hand writing of Daniel Hill, Pedro de Carrillo, Anastacio Carrillo and Vicente Moege? and if yes whether their signatures appearing on and upon said document are their true and genuine signatures respectively?

Answer. I am acquainted with the signatures and hand writing of the persons above named respectively. Their signatures appearing on said document are genuine

W. E. P. Hartness

Mr Greenhow Associate Law Agent was present at the taking of this deposition but declined to interrogate the witness
 Subscribed and sworn to before before me at San Francisco this 29th day of September A.D. 1853

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Alpheus Felch - Commissioner
 Felch in Office Sept. 29. 1853

Geo. Fisher Secy
 Recorded in Ev. B Vol 3 p 225
 Geo. Fisher Secy

Claim No. 520
 Office of the Board of Commissioners &c &c

Deposition of Isaac I Sparks
 This day before Comr Robt. A Thompson came Isaac I Sparks a witness in behalf of Claimant Daniel Still No. 520 who after being duly sworn deposed as follows.

Present N Sauleat Esq. Atty for claimant and
 R Greenhow Esq. U. S. Associate Law Agent

Testimony in behalf of Claimant

In answer to 1st Question. Witness states that his name is Isaac I Sparks, his age forty nine years and residence Santa Barbara County California.

2^d Question by Plaintiff's Atty.
 Do you know the place called La Golita claimed in this Case, if so, state what you know of the Occupation, Cultivation and improvement of Saice Ranch by Daniel Still the present Claimant?

Answer. In the latter part of the year 1846 The claimant Daniel Still built a house at San Jose which I suppose to be within the boundaries described in the grant in this Case. The Saice House was occupied by his hirelings. The first cultivation that I recollect of by Claimant was the year before last when he had four or five acres in cultivation in Barley, potatoes &c. He had on the place some hundred and fifty or two hundred heads of

Cattle and some sheep join to the grant, and has continued them on the Ranch ever since.

3rd Question by same. Where was Claimant Still living in July 1846?

Answer. In the buildings of the Mission of Santa Barbara about two miles from the Ranch of La Soledad. He left the Mission some four or five years ago and went to reside with his family in a house which he had built on a piece of land which he obtained from Dr. Don near the line of his Ranch of La Soledad about two hundred yards distant.

He procured said land from Dr. Don because it was a good site for a building.

Isaac J Sparks

Sworn to and subscribed before me this 14th day of October 1853

R. Aug. Thompson Secy

Filed in Office Oct. 14, 1853

Geo Fisher Secy

Recorded in Office Oct. 14, 1853

Geo. Fisher

Recorded in Ev. Book

Secy

3 pag 252

Geo. Fisher Secy

Case 520

Daniel Still claimant
United States Land Commission.

Deposition of
P. C. Carrillo

On this day before Commissioner R. Aug. Thompson came Pedro C Carrillo a witness on behalf of Claimant Daniel Still Case No 520 who after being duly sworn deposed as follows

Present Claimants Atty and United States
Apptd Law Agent.

Witness states his name is Pedro C Carrillo his age thirty seven years & his residence Santa Barbara Calif

Question by Claimants Atty.

Are you acquainted with the Rancho called La Soledad? if so, state what you know of its Occupation, Cultivation and improvement by Daniel Still the grantee and claimant in this Case?

X

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Answer. I know Saeis Rancho, about February
 or March 1847 I was on it. It was then occupied
 by the claimant Daniel Hill. He had a house
 on it in which he lived with his family -
 He had also stocks of Cattle & horses -
 He had also a vineyard and Orchard which
 he was cultivating - The house was a new
 one and was built by Saeis Hill. He had
 a very large family - In August 1849 in my
 official capacity as Judge of the 1st Instance
 I gave the judicial possession of Saeis Rancho
 to Saeis Hill - The Original document now
 shown me marked Exhibit No. 2 A. F.
 annexed to the deposition of W. E. P. Stantnell
 filed in this case is the Original record of
 Saeis Act of Judicial possession and was
 executed by me and delivered to the Saeis Hill
 at the time it bears date. I have examined
 the boundaries described in Saeis act of
 Judicial possession, they are the true and
 correct boundaries of Saeis Rancho and
 can be readily identified on the ground

Question by Same. State who are the Colendantes
 or adjoining proprietors to Saeis Rancho and
 on what sides their Lanzas respectively join
 the Same

Answer. The Westward Los dos
 Pueblos the Rancho of Nicholas & Den.
 To the East Los Indigueros the Land of the
 Mission of Santa Barbara. To the South by
 the Lanzas of Thomas & Robbins. On the
 North the line runs along the Sierra Madre
 or high Mountains - There is an excellent
 clerical error in the grant, made by transpo-
 sing the points of the Compass in stating the
 position of the Lanzas of Nicholas & Den
 and those of the Mission, to give their true
 position the calls of the grant should be
 reversed

Pedro le Carrillo

Sworn to and subscribed before me Feb. 17. 1854
 A. Aug. Thompson Com.
 Filed in office Feb. 17. 1854 Geo. Fisher Secy

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X

9

6 9

1

1846.

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Expediente promovido por Don
Daniel Hill sobre el parage llamado
La Goleta.

map 2

nº 570.

2

here follows a map or plan

3

Exmo. Señor Gobernador.

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Daniel Hill vecino de este Departamento casado con Mejicana de que he tenido numerosa sucesion y actual arrendatario de esta mision de Santa Barbara ante V.E. con todo el respeto que es debido me presente en mi nombre y en el de los doce hijos que tengo obediendo que como hasta al presente despues de los muchos años que viva en el pais, no ser podrido lograr conseguir sin acosta de dinero un pequeño terreno situado en esta Mision de Santa Barbara y no ha sido en una mitad de lo que necesito para obeerar mis bienes semovientes cuya conservacion y aumento me estan neces-
 4 años para el lastenimiento de mi numerosa familia me es indispensable el ocurir a la notaria bondad de V.E. suplicando le que al menos por evitar la disminucion y extrania del poco ganado que tengo y principalmente por la conveniencion que sin duda se recien ante V.E. mi esposa e hijos se sira agradecer mas con un corto terreno que reserva aun a la mision de Santa Barbara llamando la Goleta al O. del rancho de los dos pueblos de D. Nicolas A. Den en estension de un sitio de ganado mayor comprue al diseno que alibiamente acompuno de suente que al concluir el arrendamiento que tengo de este establecimiento sus lindes son los que en mi diseno se demarcan bajo el concepto de que o' uno de no consideren perjudicando a ninguno por esta conversi'on ofeseo conser una de indemnizacion la cant-
 5 dad de quinientos pesos. Asi lo espero de la bondad de V.E. con lo que recibire gracia y favor dignandose V.E. aceptar esta en papel comun por absoluta falta del sellado que corresponde.

Santa Barbara. Mexq. 37 de 1846.
 Daniel Hill.

6 Pio Pio Gobernador Constitucional Del Departamento de California. Por cuanto D^o Daniel Hill casado con Mejicana y establecido en este depart^o ha pretendido para su beneficio personal y el de su familia el terreno conocido con el nombre de la Goleta colindante al N. con la Sierra al Sur con la playa al E. con el rancho de D^o Nicolas A. Den, llamando los dos pueblos y al O. con los terrenos de la Mision de Santa Barbara, practicados previamente las averiguaciones causeras antes segun

7. 11
lo dispuesto y de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828, he venido en uso de las facultades que estan conferidas a nombre de la Nacion Mexicana en concederle la propiedad de el por las presentes letras a reserva de la aprobacion de la Junta. Asamblea Departamental y bajo las condiciones siguientes.

1^a Debe crearse sin perjudicar las transacciones y servidumbres la disputada libre y esclusivamente destinando lo al uso o cultivos que mas le aconviene. en el concepto de que dara por via de indemnizacion la cantidad de quinientos pesos, cuya suma satisfara el ~~gobierno~~ ^{gobierno} ~~que se le adjudica~~ ^{que se le adjudica} la propiedad. ~~Se~~ ^{Se} citara del Juez respectivo de la posesion juridica en virtud de este despacho por el cual se demarcaran los lindes con las maneras necesarias.

3^a El terreno de que se hace mención es puramente el de un litio de quatro mayor conforme al diseño que aparece presentado. El Juez que otorga la posesion lo hara medir con arreglo a ordenanza dejando el sobrante que resulta a la usacion para los usos convenientes.

En consecuencia cuando que testimoniare por firme y valere el presente titulo, se tome razon de el en el libro de asientos sobre adjudicaciones de terrenos y se entregue al interesado para su resguardo y demas fines. Dado en la Ciudad de los Angeles en este papel comun por falta al sellado diez de Junio de mil ochocientos Cuarenta y seis.
Dio Dio. José Mathias Novaro.
Se Ynt^o.

Office of the Surveyor General of the United States for California.

I John C. Hays Surveyor General of the United States for the State of California and as such having in my office and in my charge and custody a portion of the Archives of the former Spanish and Mexican Territory or Department of Upper California by virtue of the power vested in me by law do hereby Certify that the seven preceding and hereunto annexed pages of tracing paper numbered from one to seven inclusive exhibit true

and accurate copy of a certain document now on file
and forming part of said archives in this office.

In testimony whereof I have
hereto signed my name officially and caused my
Seal of office to be affixed at the City of San Francisco
this twelfth day of December 1853.

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John C. Mays.
U. S. Surveyor G. for Calif.

Filed in office. Poly. 14th 1851.

Geo. Fisher. Secy.

13th Translation of
Espediente

1846

Record of Proceedings (Espediente) Executed by
Don Daniel Hill for the place called La
Goleta.

No. 570.

(Place for a Map
in the Original)

To his Excellency the Governor

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I Daniel Hill
Resident of this Department married to a
Mexican woman, with whom I have had a
good many children and the actual lessee
of the Mission of Sta Barbara appears before
you with due respect in my own name and
in the name of the twelve children I have and
represent; That up to this time since the many
years I have lived in the country I have not
been able to obtain, unless by purchase a small
piece of Land situated on this Mission of
Santa Barbara and that is not even a half
of that which I require to locate my cattle
the protection of which and their increase
is so necessary for the sustenance of my num-
erous family.

It is absolutely necessary for me
to apply to you well known and praying
that at least to avoid the diminution and
scattering of the few heads of cattle that I own
and particularly in consideration that undoubtedly
my wife and children are desiring of your protec-
tion, we pray you would grant to us a small
piece of Land belonging to the Mission of Sta
Barbara called La Goleta to the East of the
Rancho of the Dos Pecos belonging to Don
Nicolas de Leon, being one square league (en
sitio de ganado Mayor) in conformity with the
Sketch hereto Annexed so that at the expiration
of the Lease that I have of the Establishment
of the Mission of Sta Barbara, the bound-
aries of the Land remain as appear on the
Sketch, under the Condition that besides that
this grant does not injure any one I offer by
way of indemnification the sum of five hundred
Dollars.

Thus I expect it from your kindness for which I will receive favor and benevolent feelings, your deigning to accept these presents on this ordinary paper on the absolute absence of the proper stamped paper

Santa Barbara May 27th 1846
Daniel Hill.

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Pio Pio Constitutional Governor of the Department of California.

Whereas Don. Daniel Hill married to a Mexican Woman and established in this Department has prayed for his benefit and for that of his family for the Land known by the name of the Golletes, bounded on the North by the Range of Mountains, on the South by the Beach, on the East by the Rancho of Don. Nicolas Don called the Dos Pueblos on the West by the Land of the Mission of San Barbara, the proper steps being first taken and the informants had, according to Decree and the Law of 18th August 1824 and the regulations of the 21st of Nov. 1828 in virtue of the power with which I am clothed in the name of the Mexican Nation I have granted to him the aforesaid Land declaring it his property by these presents, subject to the following approval of the Departmental Assembly and under the following conditions

1st He may enclose it without prejudice to the roads, crop roads and sweeteeds, he may enjoy it freely and exclusively, applying to the soil and cultivation which to him may appear best, in consequence whereof he will pay by way of indemnity the sum of five hundred dollars, which sum the grantee will pay as soon as the Government will require it -

2^a When the property will be confirmed to him he will select from the proper maps that judicial possession in virtue of this grant for which purpose the limits will be laid out with the necessary Land marks.

X

3^o The land hereby granted is simply composed of one square league, in accordance with the sketch, which appears to have been filed. The Judge who will give the possession shall have the land measured according to the Ordinance leaving the surplus to the Nation for its convenient use.

In consequence I order that said title being held as firm and valid entry thereof be made in the book of notation for the collections of lands, and it be handed to the party for his protection and other ends.

Given in the City of Los Angeles on this ordinary paper in the absence of sealed paper this tenth day of June Eighteen hundred and fifty six

Jo. Pico
Jose Mathias Moreno
Secretary pro tempore

Filed in office July 17. 1854

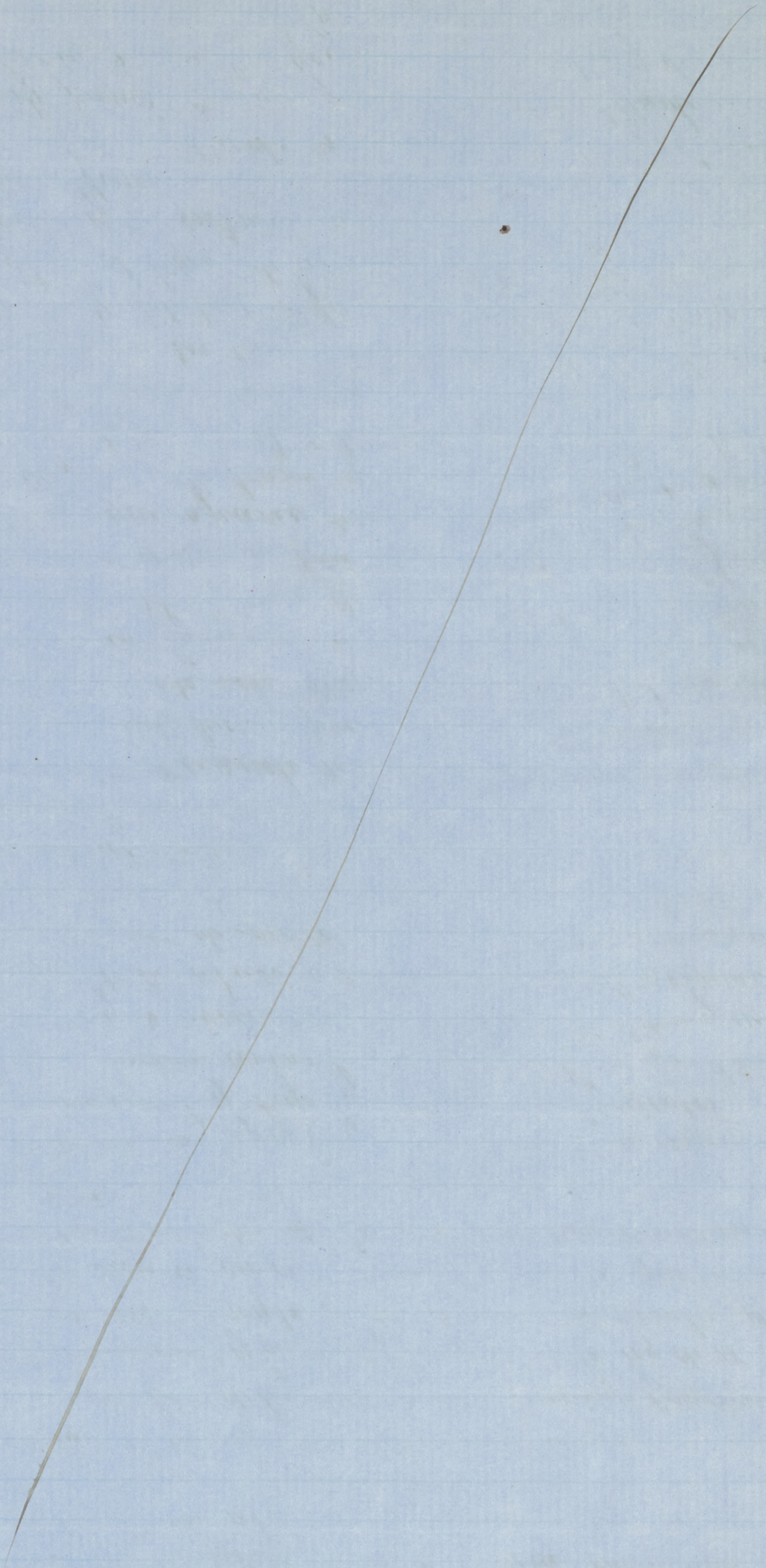
Geo. Fisher
Secy



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X

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Pío Pico Gobernador constitucional del Departamento
de California.

L. P.

Exhibit No 1
A. F. Arredondo
Depo. of N. E.
P. Hartnell

Por cuanto Don Daniel Hill casado con
Mexicana y establecido en este Departamento ha pretendido
para su beneficio personal y el de su familia el terreno
conocido con el nombre de la Goleta colindante al
Depo. of N. E. N. con la Sierra al S. con la playa, al E. con el rancho
de Don Nicolas A. Ven llamado los dos Pueblos y al O.
con tierras de la Misión de Santa Barbara: practicadas
previamente las diligencias y averiguaciones convenientes
segun lo dispuesto y de conformidad con la ley de 18 de
Agosto de 1824 y reglamento de 21 de Noviembre de
1828 he venido en uso de las facultades que me son
conferidas a nombre de la nacion Mexicana en con-
cederle la propiedad de él por las presentes letras
a reserva de la aprobacion de la Exma. Asamblea
Departamental y bajo las condiciones siguientes.

1.º Podrá cercarlo sin perjudicar las traversas
caminos y servidumbres lo disfrutará libre y exclusivo
destinándolo al uso o cultivo que mas le acomode
en el concepto de que dará por via de indemnizacion
la cantidad de quinientos pesos cuya suma satis-
fara el agraciado tan luego como el Gobierno lo
disponga.

2.º Cuando se le confiere la propiedad
solicitará del Jefe respectivo de él la posesion juridica
en virtud de este despacho por el cual se demar-
caran los linderos con las sujeciones necesarias.

3.º El terreno de que se le hace mención es
puramente el de un sitio de ganado mayor conforme
al diseño que aparece presentado. El Jefe que otiere
la posesion lo hará medir con arreglo a orden
venga dejando el sobrante que resulte a la Nacion
para los usos convenientes.

En consecuencia mando que teniendo
el presente titulo por firme y valdero se tome raxon
de él en el libro de asientos sobre adjudicaciones de
terrenos y se entregue al interesado para su resguardo
y otros fines.

Dado en la Ciudad de Los Angeles
en este papel comun por falta del sellado a diez
de Junio de mil ochocientos cuarenta y seis.

Pío Pico

18

18

José Matthias Moreno . Suo. Int^o

Queda tomada razón de este Superior despatch
on el libro respectivo.

Moreno.

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Filed in office. Jan'y. 19th 1853.

Geo. Fisher. Sec'y.

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19th Translation
of Grant.

Pro Tico Constitutional Govana of the Depart
ment of California

Whereas Don Daniel Still

Married to a Mexican lady and established
in this Department has prayed for his personal
benefit of that of his family for the Lands
known as the Coleta bounded on the North
by the Ridge of Mountains on the South by the
Sea Shore on the East by the Rancho of Don
Nicolas Don called Las Las Pueblos and on
the West by the Lands of the Mission of Santa
Barbara, the request information concerning
said Land having previously been obtained
agreeably to the Law of the 18th of August 1824.
And the Regulations of the 1st November 1828
I in virtue of the faculties to me granted as in
the name of the Mexican Nation grant the
aforesaid Land to said Don Daniel declaring it
his property in virtue of these presents subject
to the approval of the Departmental Assembly
and under the following Conditions

1st. He may Enclose said Land without prejude
dice to the Crop or main roads or servitudes
he may enjoy it freely and exclusively applying to
such Cultivation or use which to him may
appear best, in consequence whereof he shall
give by way of indemnisation the sum of five
hundred dollars which amount the grantee
shall pay as soon as the Government shall
Order.

2nd. When the property shall be confirmed to him
he shall pray for the peaceful possession from
the proper Judge in virtue of these presents
for which purpose the limits of the property shall
be marked out with proper Land marks

3rd. The Land granted is composed of one (Sitio
de ganados Maya) Square league of grazing
land agreeably to the sketch presented.
The Judge who will give the possession shall
have it measured agreeably to regulations
the surplus of the Land to remain to the Nation
for such use as it may deem proper

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In consequence whereof I order that this title be held
from and valid and that entry thereof be
made in the Book for granting Lands and it
be delivered to the grantee for his security and
Other Uses

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Given in the City of Los Angeles on
this Ordinary paper in the absence of sealed
paper

This 10th day of June 1846

Pedro Pico

Entry hereof has been made in the Superior
office in the proper Book.

Moeno

Filed in Office July 19th 1853

Geo. Fisher
Secy

Exhibit No. 2.
A. J. Armijo
to the Deeds of
N. E. O. Hart-
nell

Título de posesion del paraje
de la Poleta a favor de Don Daniel Hill.

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agosto 8 de 1848.

Señor. Juan de 1^a Instancia.

Daniel Hill vecino de este punto ante la justificación de N. Compañero y digo: que habiéndolo obtenido la Concesión en propiedad del terreno conocido con el nombre de la Poleta por justo título especial a mi favor con fecha diez de Junio de mil ochocientos cuarenta y seis por el Sr. Gov. Gobernador del Departamento Don Pio Pico Sr. Suplico se sirva dar me la posesión jurídica de estilo con arreglo a dicho título y documentos que acompaña a esta mi instancia: Si viéndose q. N. admitirme en papel Común por no haber del Sellado. &c. &c.

Daniel Hill. Santa Barbara. Julio 30 de 1848.
Santa Barbara Julio 30 de 1848.

En virtud de la antecediente solicitud procesarse por mi el presente Juan a la medición señalamiento de linderos y posesión jurídica del terreno de la Poleta que solicita el interesado en este expediente con arreglo a los documentos que acompaña señalando para efectuarlo el día tres de Agosto próximo para lo que se citaron con boleta de comparendo a los colindantes. Así lo el Juan primero del partido de Santa Barbara lo mandé, decreté y firmé actuando por receptoria con testigos de asistencia por falta de escribano. Nacional y público de que doy fe.

Pedro C. Carrillo.

Asa. Anastasio Carrillo. Vicente Moraga.

En la fecha presente D. Daniel Hill se le notificó el auto que antecede y de él entendido dijo: que lo oye y se da por citado; lo firmó con miyo y los de mi asistencia de que doy fe.

Pedro C. Carrillo. Anastasio Carrillo. Vicente Moraga.
En la misma fecha se libraron las boletas que se mandan en el primer promovido y para que conste por diligencia lo rubrique.

En el rancho de la Poleta a los tres días del mes de Agosto de mil ochocientos cuarenta y ocho en cumplimiento de la cita librada a los colindantes del expresado rancho, concurrieron D. Thomas M. Robbins y D. Nicolas A. Den y entendidos de que se iba a proceder a la medición señalamiento de linderos y posesión del rancho de la Poleta a favor de D. Daniel Hill, y otijeron quedar entendidos y para constancia lo firmé

aron con migo y los de mi asistencia de que doy fe.
Petro e. Carrillo. ana. Vicente Morraya.
ana. Anastasio Carrillo.

En seguida Yo el Juez de estos autos nombre por med
idones en la presente posesion a los vecinos Estevan
Olivera y Luis Martinier quienes previa la aceptacion
y juramento procedenan al desempeño de su encargo
y para constancia lo pongo por diligencia que firmé
segun derecho igualmente los de mi asistencia de
que doy fe.

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Petro e. Carrillo.
ana. Vicente Morraya. ana. Anastasio Carrillo.
En la fecha y en el expresado numero se les notifico el
auto que antecede a los vecinos Esteban Olivera y a
Luis Martinier y entendidos de el dijeron que acept
aban dicho encargo de mediciones y juraron por Dios
et. S. y una señal de cruz de usar lo fiel y legalmente
a todo su leal saber y entender sin dolo ni fraude
contra persona alguna y por no saber escribir hicieron
una señal de cruz lo firmé y con los de mi asistencia
de que doy fe.

Petro e. Carrillo. ana. Vicente Morraya
ana. Anastasio Carrillo.
Incontinentemente Yo el referido Juez, mandé traer a
mi presencia un coronel con que se han de medir
las tierras de dicho rancho y que los medidores lo midan
de a cincuenta varas lo que firmo con migo y los
de asistencia de que doy fe.

Petro e. Carrillo.
Ana. Carrillo. ana. Vicente Morraya.
En seguida y en presencia de mi el expresado
Juez los medidores mencionados tomaron un
Coronel y con una vara de medir usual Mexicana
midieron cincuenta varas para hacer la respectiva
medicion y para que conste lo rubrique.

En la misma fecha y en el referido rancho siendo
como las once del día Yo el expresado Juez para
proceder a la medicion de tierras que se ha de
hacer a D. Daniel Mill, mandé a los medidores
mencionados se pongan en la punta de la loma
de la Poleta en donde está un "hu" desde este
punto se tiro el coronel rumbo al norte y se llevo
al pie de la Sierra maotne, pasando por sobre
el camino de San Mateos, rematando la medida

24 en un encino que se marco con (+.H.) y contaron ciento diez cordeles. Seguidamente se siguió la segunda medición teniendo el cordel rumbo al Este desde dicho encino y concluyó esta medición al pie de una luc que está bajo de un encino, el que también se marco con (+.H.) y en esta hubo noventa cordeles: En seguida se procedió a la tercera medición tomándose el cordel rumbo al Sur y terminó en el Carrizanal que va de la Sienequita para la orilla de las lomas como se ve en las mapas mas abajo de la primera cañ avolta que sigue: de las ultimas huertas ya habo diez cordeles: ultimamente se dio paso a la cuarta medición siguiendo el cordel rumbo al "Oeste" a linea recta para la Goleta primera, punto donde se comenzó la medida pasando por un aliso que sirve de lindero en medio de los parages de Don Daniel Hill y el de Don Thomas Robbins cuyo arbol se marco con las iniciales (D.H.) rematando esta medición en el lindero de Don Nicolas Den en donde hubo diez cordeles por lo que declaran dichos medidores tener dicho rancho de la Goleta un sitio de ganadero mayor acompañando a estos expedientes el plano que figura el terreno medido. Y para Constancia lo firmo por auto con los testigos de asistencia Joseph.

Jedro C. Carrillo. Vicente Moraga.

ana. Anastasio Carrillo.

En el referido rancho de la Goleta y en igual fecha de Daniel Hill, vesino del puerto de Sta Barbara acompañando del Jue y testigos de estos autos digo que habiéndose medido las tierras de este rancho segun consta en el auto anterior tomaba y toma la verdadera y corporal posesion de dichas tierras medidas pues le pertenecen con justo titulo que obtiene de la concecion que de ellas le hizo el se el ent el se ñor Gobernador Don Pio Pico Conse ñor de Junio de mil ochocientos cuarenta y seis entre y para por ellas, arbores yerbas esporce o pagando de tierra con yo los ramos de los arboles e hijos de unas demost raciones ya de estas de posesion en senal de lo que otorgo tomaba dichas tierras: Y yo dicho Jue manote que desde entonces lo tuvieron y conocen por verdadero Señor y poseedor de ellas. De todo lo espuesto pido dicho D. Daniel Hill que para memoria de lo referido y conservacion de su

g. 25-

le fuese extendido por mi el presente Luce una Constancia
y lo firmé con miyo y las de mi asistencia de que voy se.

Peolno C. Carrillo. Ana^s. Carrillo.

De cda. Vicente Morraya.

En igual fecha se le entrego por mi el Luce referido
el presente título de posesion D. Don Daniel Mill
Constante en ciertos fogos retites sin la Constancia
y para Constancia lo firmé con los de mi asistencia
respectiva

Peolno C. A. Carrillo. Ana^s. Carrillo - ama

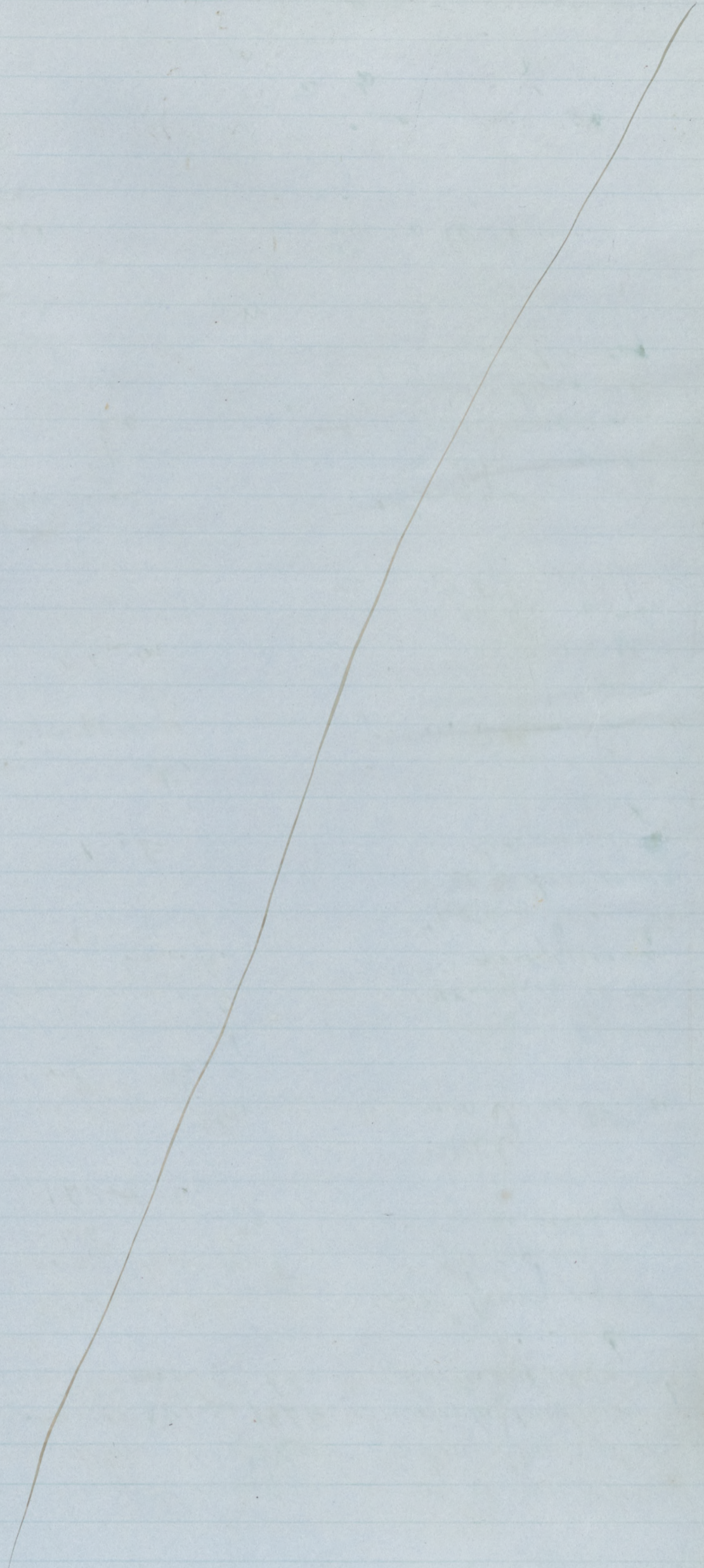
ana. Vicente Morraya.

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PAGE 24

Filed in office. Sept. 6th. 1853.

Geo. Fisher.

Secy.



2nd Translation of
Judicial possession

To the Hon. the Judge of the first Instance

Daniel Hill resident of this place appears before you
and says:

That having obtained the grant of the
Land known as the "Golito" as per grant dated
the 10th day of June 1846 from his Excellency
Don Pico Godina of the Department, prays
that Judicial possession be given him according
to said Title & Documents accompanying these
presents, praying to be Excused for using this
Ordinary paper on the absence of sealed paper
marking, both &c

Daniel Hill

Santa Barbara June 30th 1848

Santa Barbara July 30th 1848

In virtue of the
foregoing prayer the Judge proceeded to the
measuring, marking the limits and giving
the Judicial possession of the Golito petitioned
for by the interested party in these proceedings
according to the accompanying documents fix-
ing the third day of August next for that
purpose, for which purpose the Neighbors was
Notified in writing to appear. Thus ordered
decreed and signed by me, acting by authority
with the assisting witnesses in the absence of
Notary Public and Notarial in faith of
which.

Pedro C Canillo

Witnesses

Anastasio Canillo. Vicente Morago

On the above date Don Daniel
Hill was notified of the above proceedings
which being understood by him, said that
he heard it, and considered himself notified
wherefore I affix my signature together with
the witnesses

Witnesses.

Pedro C Canillo

A. Canillo. V. Morago

On the same date the Notices above referred
to were served on witnesses whereof I have
affixed my signature,

X

27 On the Rancho of Gotelo on the 3rd day of August 1848 agreeably to the Notices given to the Neighbors of the above Rancho appeared Dr. Thomas M. Robbins and Dr. Nicolas A. Den and knowing that the necessary steps were about to be taken to measure off the place the limits and give the possession of the aforesaid Rancho de los Gotelos to Don Daniel still admitted to be well informed in which of I have signed these presents together with the assisting witnesses
 Witnesses P. le Canillo
 Vicente Moraga - A Canillo

Thereupon I the Judge appointed as Chain Carriers to operate the possession the witnesses Esteban Olvera and Juan Martinez who having previously accepted and being sworn proceeded to the discharge of their duties. In which of I have hereto affixed my signature together with the assisting witnesses
 P. le Canillo
 Assisting Witnesses. Vicente Moraga. A Canillo

On the day aforesaid and on the said Rancho the above proceedings were notified to the neighbors Esteban Olvera and Juan Martinez which being understood by them said that they accepted the aforesaid duties of Chain Carriers and made Oath before God our Lord and on the Holy cross to perform their duties faithfully and according to their best understanding without fraud or injury to any one they not knowing how to sign they made the sign of the cross, and I affixed my signature with the assisting witnesses in faith whereof
 P. le Canillo
 Witnesses, V. Moraga. A Canillo

Immediately I the aforesaid Judge ordered that a line be brought to me such as one used to measure lands and that a length thereof of fifty Varas be measured off whereupon I

X

Affixed my signature with the witnesses
 witnesses. P. le Carrillo
 V. Morago. A. Carrillo

Next the above, ^{named} Chain bearers took a line before
 me the aforesaid Judge and with an ordinary
 Mexican Vara Measure, they measured a line
 of fifty Varas in order to make the above meas-
 urement. In witness whereof I affixed my
 signature

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 PAGE 27

P. le Carrillo,

On the same date and on the above Rancho
 at about 11 o'clock the aforesaid Judge in
 order to make the required measurement of
 Don Don. Still ordered that the Chain carriers
 place themselves on the top of the Hill de las
 Golias where there is a willow tree from thence
 the line was stretched in a westerly direction
 until they arrived to the main chain of
 mountains, passing on the road of San Marcos
 ending the measurement where stood an Oak
 whereon the marks (FH) was placed giving one
 hundred lengths of fifty Varas, the
 second measurement was next begun extend-
 ing the line in an easterly direction from the
 aforesaid Oak and stopping at the foot of a
 rock against an Oak tree on which was also
 placed the aforesaid marks of (FH) this
 measurement giving ninety lengths of fifty
 Varas, then the third measurement began exten-
 ding the line in a southerly direction to the
 main road going to the Sierritas on the
 edge of the hills about two hundred Varas
 below the first gulch near the last arches
 giving one hundred lengths of fifty Varas, the
 fourth measurement was next proceeded with
 extending the line in a westerly direction and
 in a direct line to the Golias the first point
 started from passing along side of a Sycamore
 tree being the limits of the lands of Don Don
 Hill and Don Thomas Robbins which tree
 was marked (FH) carrying this measurement on
 the limits of the lands of Don Nicolas Allen
 giving one hundred lengths of fifty Varas.
 Wherefore the said Chain bearers declared the

Sacred Rancho to contain One Square league of grazing Land
 The sketch of the measured land accompanying these proceedings - In witness whereof I affixed my Signature together with the witnesses

P. le Canillo

Witnesses. U. Moraga. A. Canillo

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On the aforesaid Rancho of the Goteto and on the aforesaid date Don Daniel Still Resident of Santa Barbara accompanied by the Judge and the witnesses in the above proceedings since I feel the Lands of the Sacred Rancho having been measured as hereinbefore appeared, that he should take the trees and Capital possession of Sacred measured Lands belonging to him according to a just title granted to him by his Excellency the Governor Pio Pico under date of the tenth of June 1846 - He entered on Sacred Lands walked over them pulled up the grass three hands full of Earth, broke branches of trees and performed other Acts of possession in Evidence thereof, and I the said Judge ordered that from this date he be held and considered as the legal holder and owner thereof

In Evidence of all the above proceedings and for the preservation of his rights Don Daniel Still prays that I should deliver him the proper documents which I signed together with the witnesses

P. le Canillo

Witnesses A. Canillo, U. Moraga

On the same day I the aforesaid Judge delivered this present title of possession to Don Daniel Still being written on four pages without the case In fact whereof I affixed my Signature

P. le Canillo

Witnesses A. Canillo - U. Moraga

Filed in Office Sept. 6. 1850
 Geo Fisher Secy

X

Daniel Hill } For the place called La Golata
 vs } in Santa Barbara County
 The United States } Containing One Square league
 of Land.

The claimant has given in evidence duly authenticated, a grant of the Land claimed made to him by Governor Pico on the 10th day of June 1846

The land is described in the grant by a clear designation of the boundaries of its four sides, but judicial measurement was required, the surplus over one square league to remain to the Nation

map 3

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The usual testimonial of judicial possession is filed in the case, but it appears by it that the act was done on the third day of August 1848. This was after the cession of the Country was consummated by the ratification and proclamation of the treaty of Guadalupe Hidalgo. It was then too late to make ^{and the proceeding had not the effect of an official act.} segregation of the Land. It was a mere private survey and of no further or other effect. The testimony of the person who gave the posepion is taken in the case, and he verifies the general accuracy of the record of the posepion given of the boundaries therein designated

So far as the facts therein stated are important for the decision of this case they are thus made available as evidence

By an examination of the original map attached to the Expediente, with its scale of distances, the report of the several measurements made by the Alcalde in giving the posepion in 1848 and the description of the Land and its boundaries as delineated in the depositions, it appears that the area of the entire premises within the boundaries designated in the grant, will not exceed one square league of Land a judicial measurement therefore might well be dispensed with; the grant covering necessarily the entire premises

30

The proof shows that the grantee occupied the Land with his cattle before the grant was made, and within a few months after the grant, had built a house

37

31

and lived with his family on the premises
He also planted an Orchard and a
Vineyard.

We think the Conditions of the grant
Substantially Complies with, and a decree
of Confirmation will be entered

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Confirmed

Tellur in Office Dec. 26. 1854

Geo. Fisher
Seay

X

33 Decree

Daniel Hill

¹⁶⁸
The United States

In this case on hearing the proofs and allegations it is adjudged by the Commission that the claim of the said petitioner is valid and it is therefore decreed that the same be confirmed.

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The Land of which confirmation is hereby made is known by the name of La Golota being the same decreed by said petitioner and situated in Santa Barbara County, and is described and bounded as follows; to wit; Bounded on the South by the Sea Shore, on the North by the foot of the range of mountains about one league distant from said Shore; on the East by the Lands known as the lands of the Mission of Santa Barbara, and on the West by the lands of Don. Nicolas Don called Los Dos Pueblos. Said premises containing one square league of Land and being the same granted to said petitioner by Governor Pio Pico in June 1846, reference for more particular description thereof to be had to said grant and to the map constituting a part of the trace copy of the Expediente on file in this case

Alpheus Felch }
R. Aug. Thompson }
J. B. Russell }
Commission

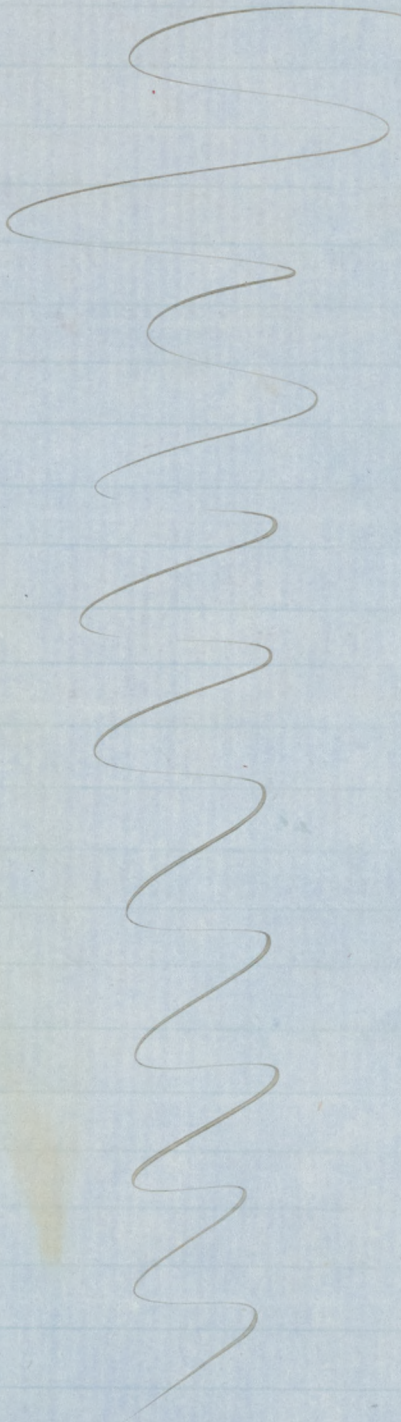
Filed in Office Dec. 26. 1854

Geo. Fisher
Secy

X

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And it appearing to the satisfaction of the Board
that the Land hereby dedicated is situated
in the Southern District of California It is
Ordered that two Transcripts of the proceedings
and decision in this Case and of the papers and
evidence upon which the same are founded be
made out and duly certified by the Secretary
One of which Transcripts shall be filed with
the Clerk of the United States District Court
of the Southern District of California
and the other be transmitted to the Attorney
General of the United States,



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X

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

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I, *Geo. Fisher* Secretary to
Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
foregoing *Thirty four* pages, numbered from
1 to *34*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. *520* on the Docket of the said Board,
wherein *Daniel Hill* is —

the Claimant against the United States, for the place known by
the name of "*La Goleta*"

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
Twentieth day of *June*
A. D. 1855, and of the Independence of the
United States of America the seventy-ninth.

Geo. Fisher

U. S. DISTRICT COURT,

Southern District of California.

No. 25-2, 252

THE UNITED STATES,

vs.

David Hill,

'La Goleta'

252

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 520

Filed, July 25 1855

C. E. Barr
Clerk

By A. H. Lewis
Deputy

252



1855

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Office of the Attorney General of the United States,

Washington, 29 June 1855.

520. "La Goleta"

David Hill, Claimant

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 14th day of June 1855, the appeal in the district court of the United States for the ~~Southern~~ district of California will be prosecuted by the United States.

Clatring

Attorney General.

c. s.

No. 252.

W. S. District Court
Southern Dist. of Cal "

United States

"

Daniel Hill

Notice of Appeal in
Case No. 520

Filed Oct 4th 1855.

J. E. San.
Clerk

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In the District Court of the United States for the Southern District of California.

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.



Daniel Hill, Appellee

vs

The United States, Appellant.

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Docket No. 252.

Transcript No. 520.

TO THE HON. ISAAC S. K. OGIER, JUDGE :

The Petition of Pacificus Ord, a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the 19th day of January A. D. 1853, Daniel Hill

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called La Goleta

in the County of Santa Barbara State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 26th day of December A. D. 1854, the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the 2nd

day of July A. D. 1855, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 520; reference to which it is prayed may be had and made part of this petition.

That on or about the 14th day of June A. D. 1855, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and

evidence on which said decision was founded. That thereafter, to wit:
on ^{or about} the 4th day of October — A. D. 1853, the said
Attorney-General of the United States filed, or caused to be filed, in
behalf of the United States, a notice with the Clerk of said District
Court of the United States, that the appeal in said cause from the said
decision of the said Commissioners, in the District Court of the United
States for the Southern District of California, would be prosecuted by the
United States. Your petitioner further represents, that the land claimed,
as aforesaid, is situate in the Southern District of California, and within
the jurisdiction of this Honorable Court. Your petitioner further represents
and insists, that the said claim is invalid; and the said decision of said
Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for
many errors and imperfections of law and evidence, apparent in said certified
transcript of the proceedings and decisions of said Commissioners in said
cause, filed and appealed from as aforesaid. And your petitioner denies all
and singular, each and every allegation in the said petition of said claimant,
presented as aforesaid to said Commissioners. And your petitioner further
denies that the said claimant has any valid right or title to said land claimed
as aforesaid, or any part thereof.

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And no sufficient proof having been made of the allegations in said pe-
39 tition to said Commissioners, or in support of the said claim, no decision con-
firming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled "An Act to ascertain and settle the Private Land Claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the ^{said claim} ~~same~~, and decree the alleged title to be invalid: with costs and general relief.

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J. M.

Attorney of the United States for
the Southern District of California.

N^o 252,

Filed this 5th January
A.D. 1857
Witnessed
J. McColman
Secy

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UNITED STATES OF AMERICA, } SS.
Southern District of California,

The President of the United States,

TO *Daniel Hill*

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PAGE 40

Greeting :

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against *You* in the District Court of the United States, in and for the Southern District of California, on the *fifth* day of *January*, in the year of our Lord one thousand eight hundred and fifty-~~seven~~ at the City and County of Los Angeles, in said District, by *P Ara* praying said Court to ~~reverse~~ *the decision of the United States Land Commissioners of the 26th day of December 1854 confirming your claim to the Land called La Gotita*

and that *You* are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said Petition, or the Petitioner will apply to the Court for the relief demanded therein.

In Witness whereof, I have hereunto set my hand, and affixed the Seal of said Court, at the City of Los Angeles, this *fifth* day of *January* A. D. 1857.

C. Sims CLERK.
J. Medman
Seep

No. 252

Martha Cook

Copying Summons 40
 Same name 2.
 Mileage 130 Miles 9.80
 serving Petition 2.
 Mileage 130 Miles 7.80
 \$ 20 00

UNITED STATES OF AMERICA,
 Southern District of California,
 U. S. DISTRICT COURT.

David Hill appellee
 vs
 The United States appellee
 Entered this 16th April 1857
 252 SD Copy to
 PAGE 41 J. M. Goodman
 P. 4

SUMMONS.

Received February 3rd 1857

Edward Hunter
 U. S. MARSHAL.
 43 Mr. M. Goodman
 Deputy

I served this Summons, together with a certified copy of the Petition, upon *David Hill*
 by delivering to him personally a true Copy of same
 at his Ranch La Goleta Santa Barbara
 County

at the *6th* day of *April*

in the Southern District of California, on
 A. D. 1857.

Sworn to and subscribed before me, this
16 April A. D. 1857

Lesius CLERK.

J. M. Goodman
(Seal)

Edward Hunter
 U. S. MARSHAL.

J. M. Goodman
 Deputy

In the District Court of the United States for the
Southern District of California - City and County
of Los Angeles - State of California

Daniel Hill, Appellee

ads.

The United States, Appellant

Docket - No 252

Transcript - No 525

The appellee, Daniel Hill, a citizen of the United States, and a resident of the County of Santa Barbara, State of California, now comes before this honorable court, in his own proper person, and answers unto the petition of Pacificus Ord, attorney of the United States for the Southern District of California, and says: That he has a good and valid title to all that tract of land called "La Goleta," containing one square league, situated in the County of Santa Barbara, State of California; that he was the original and is the present claimant of the said tract of land; And he prays and asks this honorable court for a decree declaring valid and confirming to him the title to all of the said tract of land called "La Goleta," according to the boundaries described in his written title, to which appellant in his petition has asked reference to be made, at the cost of appellant.

No 252.

U. S. Dist. Court for
Southern Dist. California

Daniel Hill
Appellee
vs.

The United States
Appellant.

Answer of
Appellee

Filed this 23rd April 1857
at San Francisco
J. McColman
Clerk

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In the District Court of the United States,
Southern District - State of California -

252 SD

PAGE 44 Daniel Hill

Appellee

vs.

Number 252.

The United States

Appellants

It is hereby stipulated and agreed
by and between Pacificus Ord, U. S. Dis-
-trict Attorney for the Southern District,
State of California, in the name and on be-
-half of the United States, Appellants, and
Charles Fernald, attorney for Daniel Hill,
Appellee, that this cause shall be sub-
-mitted to the District Court aforesaid, on
appeal by the U. S. from decree of conforma-
-tion by the "Board of Land Commissioners
of the U. S." to ascertain & settle private Land
Claims in the State of California, on the plead-
-ings, and on the testimony taken in the cause
before the said Board of Commissioners, and
on the transcript ~~of the transcript~~ of the Espe-
-diente, and other documents and papers on file
in said court in this cause, as soon as the
said Attorney for the United States can be
heard before said court. Charles Fernald, atty for App^e.

J. D. W.
as at

N. 252.

Don. Hill.
or.

The U.S. State.

Consent to Submit to.

Filed July 29, 1858
Chas. Hill
CR

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In the District Court of the United States
Southern District of California,

252 SD

PAGE 46

The United States
Appellants
vs
Samuel Hies
Appellee

Case No 252,

"La Colita"

Transcript No 520.

Doors

This cause came on to be heard on appeal from the United States Board of Land Commissioners to ascertain and settle the private land claims in the State of California under an act of Congress approved March 3, 1857, and a transcript of the decision and proceedings of said Board, and the papers and evidence upon which said decision was founded, and the other evidence adduced by the appellee before this Court, and it appearing to the Court that the said transcript and the notice of intention to appeal have been duly filed according to law, and counsel for the respective parties having been heard.

It is indeed adjudged and decreed that the decision of said Board of Land Commissioners be and the same is hereby affirmed, and that the claim of the appellee is good and valid in law, and the same is hereby confirmed to him as follows, situated in the County of Santa Barbara State of California, and bounded and

described as follows, to wit, bounded on the south by the sea shore; on the north by the foot of the ledge of mountains about one league distant from said shore; on the east by the lands known as the Hispanic lands of the Mission of Santa Barbara, and on the west by the lands of Don Nicolas de la called Los Dos Puertos, said premises containing ^{and no more} about one league of line, according to the calls of the grant, and reference being had to the map in the transcript, and the evidence on file in this case for a more particular description.

Witness our hand and signet in open Court, this 9th day of February, A. D. 1855.

Caused to be signed
U. S. District Judge
for the S. P. of Cal.

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P/

No 252

In U.S. District Court
Southern District

~~~~~

The United States  
Appellants

vs

Daniel Hill  
Appellee

~~~~~

Deems

~~~~~

Filed July 9<sup>th</sup> 1858  
Chris  
C.R.

~~Record~~

Recorded on Page 257

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In the United States District Court  
Southern District of California.

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PAGE 49

Daniel Hill,

Appellee

vs.

The United States

Appellant

No 359  
Docket, No 252.

Now on motion of Charles Fernald,  
attorney for appellee, and on present-  
ing to the court the mandate of the  
Supreme Court of the United States  
dismissing the appeal in this cause  
from this court to the said Supreme  
Court, and remanding the cause to  
this court for further proceedings,  
it is,

Ordered, that said mandate  
be filed in this court; and it is  
further ordered and adjudged, that  
said appellee have leave to proceed  
under the decree of this court here-  
tofore rendered, as under a final  
decree.

This done in open court this  
second day of December A.D. 1861 -

Hetcher M. Haight

District Judge of the U.S. for the Southern  
District of the State of California

No. 252

United States Dist. Court.

Southern District

Daniel Hill

appellee

v.

The United States

appellant

~~Done.~~

Motion & order to file the  
mandate Supreme Court

Filed Decr 2<sup>d</sup> 1861

G. L. Mix  
clerk

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UNITED STATES OF AMERICA, SS.

252 SD

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THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judge of the District Court  
of the United States, for the Southern District  
of California \_\_\_\_\_

greeting:

Whereas, lately, in the District Court of the United States, for the Southern District  
of California before you, \_\_\_\_\_ in a cause  
between The United States, appellants, and Daniel  
Hill, appellee, wherein a decree was rendered  
in favor of <sup>the</sup> said appellee - Whereupon the said  
appellants prayed an appeal which was  
duly allowed by the said District Court  
to remove the said cause to the Supreme Court  
of the United States - \_\_\_\_\_

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as by the inspection of the ~~transcript of the record~~ *Certificate of the Clerk of*  
*said Court under the seal* of the said *District*  
Court, which was brought into the Supreme Court of the United States, by virtue of \_\_\_\_\_

agreeably to the act of Congress, *and the rules of the said Supreme*  
*Court* \_\_\_\_\_ in such case made and provided, fully and at large appears.

And whereas, in the present term of *December*, in the year of our Lord one thousand eight hundred and *fifty nine* the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel. On consideration whereof, and it appearing that the United States have failed to have their cause filed and docketed in conformity to the rules of this Court - It is now here ordered and decreed by this Court that this appeal from the District Court of the United States for the Southern District of California be and the same is hereby docketed and dismissed and that this cause be and the same is hereby remanded to the said District Court.

*19<sup>th</sup> April*

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You, therefore, are hereby commanded that such further proceedings be had in said cause,

as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding:

Witness the Honorable Roger B. Taney Chief Justice of said Supreme Court, the first Monday of December in the year of our Lord one thousand eight hundred and fifty-nine -

COSTS OF Duplicate -  
Clerk.....\$  
Attorney.....\$  
\$

Fixed by Wm. H. Carroll  
Clerk of the Supreme Court of the United States.

No. 359, December Term, 1859  
MANDATE  
SUPREME COURT UNITED STATES.

W. States vs. Hill.  
Duplicates.

Filed in Office ~~Register~~  
Dec 29 1861 -  
H. G. Hunt  
Clerk



In the District Court of the United States, for the Southern District of California,

Daniel Hill } Rancho of  
                  v. } "La Goleta".  
The United States.

The application of Charles D. Huse to be allowed to intervene in the matter of the survey of the Rancho called "La Goleta", situated in the County of Santa Barbara, and within the jurisdiction of this Honorable Court, humbly sheweth, as follows:

That this petitioner is informed and believes that the survey of the Rancho called "La Goleta", has been returned into this Honorable Court, in obedience to an order made upon the application of Thomas Hope, the claimant of a Rancho called "Las Positas", adjoining the said Rancho of "La Goleta":

That this petitioner does not claim under prescription, settlement, or other right or title derived from the United States.

That his claim to lands interfered with by the survey of the Rancho called "La Goleta", includes one-half-mile in extent of Hide-Lands lying in front of the said

Rancho of "La Goleta", on the shore of the Pacific Ocean, which lands he purchases of the State of California, as will more fully appear by reference to the original certificate of purchase herunto annexed, dated October eleventh, A. D. one thousand Eight hundred and sixty one.

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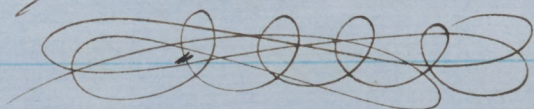
And this petitioner shows to this Honorable Court that the survey of the Rancho called "La Goleta" is not in conformity with the final decree confirming the grant thereof, and that this petitioner is injured by the said survey, in this, that the front line of the said survey is run along the margin of extreme low-tide, in part, and in part is below the line of extreme low-tide, except for the distance of about two chains, and is not run along the line of high tide; whereby the whole of the sea-beach one-half-mile long, (except for the distance of two chains,) belonging to this petitioner, is wrongfully embraced within the said survey of the Rancho of "La Goleta".

Wherefore this petitioner prays this Honorable Court to allow his intervention, and to direct that the front line of the survey of the Rancho called "La Goleta",

opposite the lands purchased by petitioners, (except for the distance of two chains in the said front line), be so changed as to run along the line of high-tide.

And this petitioners will ever pray, &c.

Chas C. Huse.



State of California,  
County of Santa Barbara.

Charles C. Huse,

being duly sworn, says, that he has read the foregoing application and knows the contents thereof, and the same is true of his own knowledge, except the matters therein stated on information and belief, and that as to those matters he believes it to be true.

Sworn and subscribed }  
before me on this 22<sup>nd</sup> } Chas C. Huse  
day of May, A. D. 1862. }

J. H. Thompson  
County Clerk.

STATE TIDE LANDS

RECEIVED from ..... 100 Dollars,

being payment of second year's interest on the within described Tract of Land.

County Treasurer's Office, ..... County, }  
day of ..... 18

County Treasurer

RECEIVED from ..... 100 Dollars,

being payment of third year's interest on the within described Tract of Land.

County Treasurer's Office, ..... County, }  
day of ..... 18

County Treasurer.

RECEIVED from ..... 100 Dollars,

being payment of fourth year's interest on the within described Tract of Land.

County Treasurer's Office, ..... County, }  
day of ..... 18

County Treasurer.

RECEIVED from ..... 100 Dollars,

being payment of fifth year's interest on the within described Tract of Land.

County Treasurer's Office, ..... County, }  
day of ..... 18

County Treasurer.

RECEIVED from ..... 100 Dollars,

being payment in full of principal and interest for the within described Tract of Land.

County Treasurer's Office, ..... County, }  
day of ..... 18

County Treasurer.

100 DOLLARS

RECEIVED OF THE FOREMAN

*Handwritten notes and signatures in cursive script, including names like 'John' and 'James', and various dates and amounts.*

CERTIFICATE OF PURCHASE.

State Land Office of the State of California.

No. 14

SACRAMENTO, Eleventh day of October 1861.

IT APPEARING FROM THE CERTIFICATE OF THE COUNTY TREASURER, bearing date the 30th day of September A. D. 1861, that Charles & Huse has paid to the STATE OF CALIFORNIA, the sum of Forty four 80/100 Dollars, being 20 per cent. of the purchase money and first year's interest on the balance for 100 Acres of State Tide Lands, described as follows in Survey No. 3 Santa Barbara County: Fractional South part of North East quarter and fraction in South East quarter of Section Twenty one (21) frac in South West 1/4 of North West 1/4, and in West 1/2 of South West 1/4 of Section Twenty two (22) in Township No. 4 North Range No. 3 West and Bernardino Meridian.

Now, Therefore, be it Known, That the said Charles & Huse having made payment of said 20 per cent. and first year's interest for the above described Tract of Land, under the provisions of an Act entitled "An Act amendatory of an Act entitled An Act to provide for the Sale and Reclamation of the Swamp and Overflowed Lands of this State, passed April 21st, 1858," approved April 18th, 1859, is the purchaser of the same; and after having in all other respects complied with the provisions of said Act, and on presentation of THIS CERTIFICATE to the GOVERNOR of the STATE OF CALIFORNIA, the said Charles & Huse, or his assigns, shall be entitled to receive a Patent for the same.

Balance of Purchase Money due \$128.00 Interest to be computed from July 30th 1861

In Witness Whereof, the Register of said Land Office has hereto set his hand and affixed his Seal of Office, the day and date above mentioned.

St. M. Gley Register of State Land Office.

20 per cent. AND INTEREST—Act of April 18th, 1859.

100 DOLLARS.

STATE TIDE LANDS.

W. S. District Court,  
Southern Dist. of California.

Daniel Hill

<sup>vs.</sup>  
The United States.

Petition of C. C. House,  
to intervene.

No 252 B

Filed June 4, 62  
John Wheeler  
clk

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In the District Court of the United States  
for the Southern District of California  
United States }  
15 } In Rancho "La Golita" -  
David Hill }

Chas E. Hulse

The petitioner ~~C. F. Merrill~~  
~~by his attorney~~ comes and exhibits to the  
approved, official survey in the above  
entitled cause a certified copy of which  
survey has been ordered to be returned  
into this Court, for grounds of Exception  
alleged as follows to wit.

1st - That the said survey improperly  
includes lands lying on the shore of  
the Pacific Ocean, between high and  
low water mark, whereas the same  
ought not to have included any  
lands lying below high water mark  
2nd - That said survey does not  
conform with the original grant  
or to the final decree of Confirmation  
in said cause, in this to wit that it  
includes certain asphaltum Banks  
on the shore of the Pacific Ocean  
below high water mark, whereas  
under said grant and decree, the  
said survey ought not to have included  
any lands lying below high water

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mark, and ought not to have included  
said asphaltum banks which belong  
to and are the property of this intervenor  
under a title derived from the State  
of California.

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3<sup>rd</sup> - That said survey is otherwise  
erroneous and does not conform  
to the original grant or the final decree  
of Confirmation in respect to the location  
of the line thereof which borders on the  
Pacific Ocean - Wherefore he prays  
that said survey be rejected and  
set aside and that the same be  
reformed

J. D. Crockett  
Atty for Intervenor  
m. B.



United States

Daniel Hill

No 252. B

Submission of  
Chas E. Hill

Filed June 4. 62  
John D. White  
Clerk

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PAGE 62

District Court of the United States for the Southern  
District of California

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The United States

No. 252

David A. Hill

Charles E. Huse  
Intervenor

It being suggested to the Court that the survey of the land claimed in this case made under final decree and approved by the U. S. Surveyor General for California does not conform to said decree and is erroneous, and the said survey will be to the injury of the party applicant

On application of J. B. Crockett Esq. it is ordered that the said Surveyor General return to this Court the plat of said survey, and that Charles E. Huse as Intervenor be allowed twenty days from and after the return thereof to file exceptions thereto. — And it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information, by the Marshal of this District

Thus done & signed in open Court this  
4<sup>th</sup> day of June 1862

Hester M. Wright

U. S. Dist. Judge South Dist. Cal.

W 252, B  
U. S. Sub Com  
South West Calif

Samuel Hill

The United States  
Ch. Hill  
Interview

Order of  
Return of Survey

Filed June 4. 62

J. M. Whelan  
Clerk

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District Court of the United States for the Southern  
District of California

The United States

No 252

David A. Hill

O. F. Morrill, Intervenor

It being suggested to the  
Court that the survey of the lands claimed in this  
Case made under final decree and approved by  
the U. S. Surveyor General for California, does not con-  
form to said decree and is erroneous, and that said  
Survey will be to the injury of the party applicants.

On application of J. P. Crockett Esq., it is Ordered  
that the said Surveyor General return to this Court  
the plat of said Survey, and that O. F. Morrill  
as Intervenor be allowed twenty days from and  
after the return thereof, to file Exceptions thereto  
And it is further Ordered that a Certified Copy  
of this order be served upon the said Surveyor  
General for his information, by the Marshal of this  
District

In Witness Whereof I have hereunto  
set my hand this the 4<sup>th</sup> day June  
1861

Fletcher M. Dwight  
U. S. District Judge at San Francisco

No 252.0  
U. S. Dist Court  
South Dist Cal

David A. Keith  
vs  
appu  
United States  
appet.  
O. J. Morris  
Intervenor

Order for Return of  
Survey  
Filed June 4/66  
John O. Wheeler  
Clerk

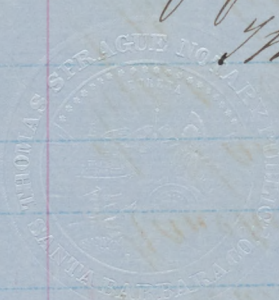
State of California,  
County of Santa Barbara.

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Charles Graham, being  
duly sworn, says, that he is, and  
has been since the year one thousand  
eight hundred and fifty three, a resident  
of the County of Santa Barbara: that  
he was on the beach, in front of the  
Rancho called "La Goleta", in the County  
of Santa Barbara, when the United  
States Deputy Surveyor was running  
the front line of the said Rancho  
of "La Goleta"; that he took particular  
notice of the mode in which said  
front line was run: that the said  
front line was run by the United  
States Deputy Surveyor along the  
line of dead-low-water, and the  
Chainsmen employed by the said Surveyor  
stretched their chain as low-down  
on the beach as was possible, following  
the edge of the water: that the tide  
at the time of said survey was extremely  
low, being lower than is usual: that  
the place of such measurement was  
directly in front of that part of the  
Rancho of "La Goleta" where are now  
situated the claims of Charles Merrill and

Charles O. Huse, and extending beyond the said claims at each end on the sea-beach. And this deponent says that he is well acquainted with the location of the claims of the said Morill and Huse, along the sea-beach, in front of the Rancho of "La Goleta." Deponent further says that he is a white-male-citizen of the United States, and is of the age of thirty six years, and that he has no interest in any tide lands within the State of California.

Sworn and subscribed  
 before me on this 22<sup>nd</sup> day of May, A.D. 1862.  
 Thomas Sprague  
 Notary Public



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United States  
rd.  
Daniel Hill

No 252 B

Affidavit of  
Charles Graham

Filed June 4. 62  
J. M. Whelan  
Clerk

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In the District Court of the United States,  
for the Southern District of California.

Daniel Hill, } Rancho of  
vs. } "La Goleta"  
The United States. }

The application of O. J. (Sr.)  
Morrell to be allowed to intervene in  
the matter of the survey of the Rancho  
called "La Goleta", situated in the  
County of Santa Barbara, and within  
the jurisdiction of this Honorable Court,  
humbly sheweth;—

That this petitioner is informed and  
believes that the survey of the Rancho  
called "La Goleta", has been returned  
into this Honorable Court, in pursuance  
of an order made upon the application of  
Thomas Hope, the claimant of a Rancho  
called "Las Positas", adjoining the said  
Rancho of "La Goleta":—

That this petitioner does not claim  
under preemption, settlement, or other  
right or title derived from the United  
States:—

That his claim to lands interfered  
with by the survey of the Rancho called

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"La Goleta", embraces one half mile in extent of tide-lands lying in front of the said Rancho of "La Goleta", which tide-lands were patented to Charles Merrill, by John G. Downry, Governor of the State of California, on the fourth day of October, A.D. one thousand and Eight hundred and sixty one, and recorded in the office of the County Recorder of the County of Santa Barbara, in Liber A. of patents, on pages 2 and 3:

And the said Charles Merrill conveyed to this petitioner all his right, title and interest in and to all the said patented Tide-Lands, by deed dated A.D. one thousand and Eight hundred and sixty two, and recorded in the office of the County Recorder of the said County in Liber C. of Deeds, on pages 631 & 632.

And this petitioner annexes to this application, <sup>a copy of</sup> the said original patent and deed of conveyance.

And this petitioner shows to this Honorable Court that the survey of the said Rancho of "La Goleta", is not in conformity with the final decree confirming the grant thereof, and that this petitioner is injured by the said survey, in this,

that the front line of the said survey is run at the edge of extreme low-tide, and not at the line of high-tide, whereby the whole of the sea-beach one-half-mile long, belonging to this petitioner, is improperly embraced within the survey of the said Rancho of "La Goleta," to his great injury.

Wherefore this petitioner prays this Honorable Court to allow his intervention, and to direct that the front line of the survey of the Rancho called "La Goleta" opposite the lands belonging to petitioner, be changed so as to run along the line of high-tide.

And this petitioner will ever pray, &c.

C. J. Morrill

By his attorney in fact

State of California,  
County of San Francisco.

C. Morrill

Charles Morrill being duly sworn, says, that he has read the foregoing application and knows the contents thereof, and the same is true of his own knowledge, except the matters therein stated on information and belief, and that as to those matters he believes it to be true: and he further says that he makes this affidavit

in the stead of O. F. Morrill, for the reason that the said O. F. Morrill is not within the State of California, but is residing in the City of Boston, State of Massachusetts; and this affiant says that he is the Attorney-in-fact of the said O. F. Morrill, and is charged with the care of the interests of the said O. F. Morrill in the lands described in the foregoing application.

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Sworn and subscribed  
before me on this day O. F. Morrill  
of , A.D. 1862.

Sworn to and subscribed before me  
on the 27th day of May, 1862  
at the City of San Francisco, in the  
Northern District of California,  
Witness my hand,  
and official Seal  
the day and year  
last above written.  
W. D. Clevers,  
U. S. Commissioner  
Districts of Cal.

Copy

United States of America - State of California

To all whom these Presents shall come touching:

Whereas, the Legislature of the State of California, on the twenty first day of April, A.D. one thousand eight hundred and fifty eight, passed an act entitled "an act to provide for the Sale and Reclamation of the Swamp and Overflowed Lands of the State" which act authorizes the location and disposal of a portion of the Swamp and Overflowed Lands donated to the State of California by the Act of Congress, and also the Tide Lands belonging to the State by virtue of her sovereignty;

And Whereas, it appears by the Certificate of the Register of the State Land Office No 13 bearing date September 28<sup>th</sup> AD one thousand eight hundred and sixty one that he has been duly notified by the County Treasurer that Charles Morrell has paid One Hundred and Sixty Dollars to the State of California in full payment for One Hundred and Sixty Acres of State Tide Lands, situated in Santa Barbara County, and described as follows, to wit: Survey No 2 State Tide Lands, Santa Barbara County, Township

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No 4. North Range, 28 West, San Bernardino Meridian: Section 22. Fraction in S part of N.W. qr and in W part of S W qr, and small fractions in the West half of the N.E and S.E. quarter. More particularly described in the field notes of said survey as follows: Beginning at a post set at the line of high tide on the beach of what is known as Santa Barbara Channel, (From this post the corner of Sections 14, 15, 22, and 23. Township 4 North, Range 28 West of San Bernardino Meridian, bears  $N 66^{\circ} E. 41.00$  Chains distant) Run thence along the line of high tide as follows,  $N 80^{\circ} W 5.00$  Chains,  $S 71^{\circ} W 3.60$  Chains,  $S 83^{\circ} W 4.00$  Chains,  $S 64\frac{1}{2}^{\circ} W 3.00$  Chains,  $S 28^{\circ} W 2.80$  Chains,  $S 58\frac{1}{2}^{\circ} W 2.10$  Chains,  $S 14\frac{1}{2}^{\circ} W 1.20$  Chains,  $S 77^{\circ} W 0.20$  Chains,  $N 70\frac{1}{2}^{\circ} W 0.16$  Chains,  $S 31\frac{1}{2}^{\circ} W 0.80$  Chains,  $N 38^{\circ} W 0.30$  Chains,  $S 70\frac{1}{2}^{\circ} W 3.00$  Chains,  $S 64^{\circ} W 2.80$  Chains,  $S 27\frac{1}{2}^{\circ} W 0.70$  Chains,  $S 69^{\circ} W 1.00$  Chains,  $N 88^{\circ} W 3.00$  Chains,  $S 84\frac{1}{2}^{\circ} W 2.75$  Chains,  $N 57^{\circ} W 4.49$  Chains, thence South  $44.60$  Chains leaving the line of high tide, thence  $N 74\frac{1}{4}^{\circ} E. 36.70$  Chains, thence North  $44.60$  Chains to the place of beginning, containing one hundred and sixty (160) Acres - Lines

run by the true Meridian, Magnetic Variation  
Southward degrees and forty minutes 14° 40'  
East. —

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Now therefore all the requirements  
of the act of the State Legislature, in relation  
to Swamp and Overflowed Lands having  
been fully complied with, I, John G Downey,  
Governor of the State of California, by virtue  
of authority in me vested, have granted,  
bargained, sold and conveyed, and by  
these presents do grant, bargain, sell  
and convey unto the said Charles Merrill  
all the above described lands or so much  
of the same as shall be found to be the  
property of this State, with the appurtenances  
thereunto belonging, to have and to hold unto  
him the said Charles Merrill his heirs  
and assigns forever

In Testimony Whereof I, John G Downey  
Governor of the State of California, have caused  
these Letters to be made Patent, and the  
Seal of the State of California to be hereunto  
affixed.

Given under my hand, at the City of  
Sacramento, this the fourth day of October  
in the year of our Lord AD, one thousand eight  
hundred and sixty one

attest. Johnson Rice, Sec. of State

H A Neely  
Register of State Land Office

John G Downey  
Governor of State

Seal

State of California  
County of Santa Barbara

I hereby certify that the  
within instrument is recorded in Liber "A" of  
Records of Patents on pages 2 & 3

Chas E Cook  
County Recorder

Filed for record this 12th day of October  
A.D. 1861 at 12 o'clock m by C. E. Cook  
for Chas Merrill

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Chas E Cook  
County Recorder for  
Santa Barbara County



copy

This Indenture, made the Eighth (8th) day of February A D One Thousand Eight Hundred and Sixty two (1862) between Charles Merrill of the First Part and A G Morrill of the second part Witnesseth That the said party of the first part for and in consideration of the sum of Five Hundred (\$500) Dollars, lawful money of the United States of America to him in hand paid by the said party of the second part, at or before the Executing and delivery of these presents, the receipt whereof is hereby acknowledged has granted, bargained, sold, aliened, remise, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, remise release, convey, and confirm, unto the said party of the second part and to his heirs and assigns for ever All the right, title and interest of the party of the first part, in and to a certain piece of side and ornamental land, situated in the County of Santa Barbara State of California at or near a place known as the Goleta, said land containing a deposit of Asphaltum, and consisting

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of about One Hundred and <sup>84</sup> Sixty Acres  
(160 acres) Commencing at a point  
on the Sea shore about six miles above  
Santa Barbara City more or less,  
at high water mark near where  
the first vein of asphaltum makes its  
appearance in the bank eastward of  
this piece of land now being surveyed,  
running westerly along said bank  
at high water line or mark one  
half mile, thence southerly, half a mile  
thence Easterly, half a mile in the edge  
of the sea, thence northerly to the place  
of beginning (one half mile) being the  
same piece of tide land surveyed  
about the middle of March last (1861)

In the party of the first part by the  
Surveyor of Santa Barbara County and  
marked and known as Survey number  
two (202) of Tide lands of said County

Together with all and singular  
the tenements, hereditaments and  
appurtenances therunto belonging  
or in any wise appertaining, and  
the reversions and reversions, remainders  
and remainders, rents, issues and profits  
thereof.

To have and to hold, all and singular

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the above mentioned and described premises  
together with the appurtenances, unto  
the said party of the second part, his  
heirs and assigns forever.

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And the party of the first part doth  
Covenant that he will warrant and  
defend, right, title and interest in  
and to the above premises, against  
the acts and deeds of the said party  
of the first part, and all persons claiming  
by, from, under or through the said party  
of the first part unto the said party of  
the second part, heirs and assigns forever.

In Witness Whereof the said party of the  
first part, has hereunto set his hand  
and seal the day and year first above  
written

C. Merrill

signed

signed, sealed and delivered in the  
Presence of  
Mr. L. Duncan

State of California } 86  
City and County of San Francisco } 55

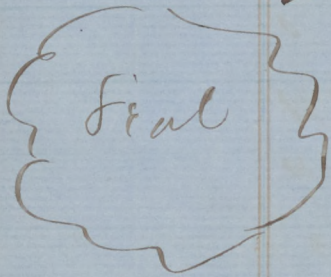
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On this Twenty first day of February AD  
one Thousand Eight Hundred and Sixty two  
before me, Wm L Duncan a Notary  
Public in and for said County, personally  
appeared Charles Mornel to me  
personally known to be the individual  
described in and who executed the  
annexed instrument, and acknowledged  
to me that he executed the same freely  
and voluntarily and for the uses  
and purposes therein mentioned

Sanctus Hals 10.  
of said Hill  
Petition of C. Mornel  
to intervene.

In Witness whereof I have hereunto  
set my hand and affixed my  
Official Seal the day and year first  
above written

Signed Wm L Duncan  
Notary Public



Filed for record this 25th day of February AD 1862  
at 10 1/2 o'clock P.M.

J. A. Thompson  
County Recorder

Recorded in Book "L" of Deeds pages 131 &  
132  
J. A. Thompson  
County Recorder

No 252. A.  
U. S. Dist Court  
South Dist Cal

United States  
v  
San Hill

Intervention of  
O. J. Morris  
Pet. aff. Decd &c

Filed June 4/62  
John Wheeler  
Clerk

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In the District Court of the United States for the Southern Dist of California  
United States }  
" } for rancho "La Goleta"  
Daniel Heild }

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The intervenor O. F. Merrill by his attorney comes & excepts to the approved, official survey in the above entitled cause a certified copy of which survey has been ordered to be returned into this court, & for grounds of exception alleges as follows to wit,

1<sup>st</sup> That the said survey improperly includes ~~the~~ lands lying on the strand of the Pacific Ocean, between high & low water mark, whereas the same ought not to have included any lands lying below high water mark.

2<sup>nd</sup> That said survey does not conform either to the original grant, or to the final decree of confirmation in said cause, in this to wit that it includes certain asphaltum banks on the strand of the Pacific Ocean below high water mark, whereas under said grant and decree, the said survey ought not to have included any lands lying below

high water mark, & ought not to have included said asphaltum tanks which  
 37 belong to & are the property of this intervenor under a title derived from the State of California.

3<sup>rd</sup> That said survey is otherwise erroneous & does not conform to the original grant or the final decree of confirmation in respect to the location of the line thereof which borders on the Pacific ocean - Wherefore he prays that said survey be rejected & set aside & that the same be reformed.

J. B. Crockett

Atty for Intervenor

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No 252, A,  
United States  
vs  
David Hill

Intervention of  
O. H. Monette

Filed June 4, 62  
John Wheeler  
Clerk

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District Court of the United States for the Southern  
District of California

The United States, applicants

David Allen, appellee

No 252

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It being suggested to the Court that the survey of the land claimed in this case made under said decree and approved by the U. S. Surveyor General for California does not conform to said decree and is erroneous, and that said survey will be to the injury of the party applicant, an application of A. Packard Esq, atty for Thos W Hope. It is ordered that the said Surveyor General return to this Court the plat of said survey, and that Thomas W Hope as Intervenor be allowed twenty days from and after the return thereof to file exceptions thereto, and it is further ordered that a certified copy of this order be served upon the said Surveyor General for his information.

In Witness Whereof I have recited the my hand this the 13th day of June A D 1862 in open Court at Monterey

Hester M. Wright

W. S. DeFady, D. C. Cal.

No 252, C,  
U. S. Dist Court  
South Dist Cal

Paul A. Hill

vs

The United States

Chas W Hope  
Intervenor

Order for Return of  
Survey

Filed July 13, 1862  
John Wheeler  
Clerk

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United States District Court for the  
Southern District of California

The United States  
Appellants

vs  
Daniel A. Hall  
Appellee

252 SD

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The application of Thomas Hope an intervenor  
in the above entitled cause, respectfully shows  
this Hon. Court:

- 1<sup>st</sup> That he is the sole owner in fee simple of  
a tract of land situate within this District  
and bounded by the lands claimed by the  
claimant in this cause, and known as the  
"Rancho de las Positas y Culera," that the claim  
for the said tract of land was duly filed with  
the Commissioners to ascertain and settle private  
land claims in the State of California in the  
name of Manuel Carrillo de Jones, Thomas M.  
Robbins, decedent, and revived in the name of  
Maria Encarnacion his wife and his children  
and heirs at law, and that on appeal to this  
Court from the decree of the said Commissioners  
and on the or about the 30<sup>th</sup> day of Dec 1856  
the said claim of said claimants was by this  
Court adjudged valid and a decree to that  
effect duly entered confirming the said claim  
to the extent of one and one half square leagues  
of land, that thereafter such proceedings were  
had that in the said cause the said decree  
was made final, as will more fully appear  
by reference to the proceedings had in said cause  
numbered on the docket of this Court as 184.

2<sup>d</sup>. That on the thirty first day of January A. D. 1838 the ~~persons~~ <sup>persons</sup> named Manuela Corral de Jones and her husband John, C. Jones conveyed by a joint deed duly executed and acknowledged all their interest in the tract, "Rancho de los Pozos y Culeva", to Maria Encarnacion de Robbins, Widow of said Thomas Robbins, dec'd and the same person in whose name this case was revived, and that on the ninth day of April A. D. 1851, the said Maria Encarnacion de Robbins by deed duly executed and acknowledged did convey all her interest in the lands claimed in this case to this intervenor, that on the said ninth day of April 1861, the said Maria Encarnacion de Robbins as guardian of the said children of the said Thomas M. Robbins dec'd, did by deed duly executed and acknowledged convey to this intervenor all the interest of the said minor children of said Thomas M. Robbins dec'd, which sale and conveyance was duly approved by the Probate Court of the County of Santa Barbara in conformity with the laws of the State of California; that on the said ninth day of April 1861, Jose Robbins and Manuela Corral de Valle the only surviving children of Thomas M. Robbins who had attained their majority, did respectively execute and duly acknowledge separate conveyances to this intervenor of all their interest in the said "Rancho de los Pozos y Culeva", and that this intervenor is by virtue of the several conveyances aforesaid the successor in interest of all the various confirmers of the said tract called, "los Pozos y Culeva".

3<sup>d</sup> This intervenor further shows that he is injured by the survey of the lands claimed in this cause, in this case, ~~that the claimant has caused a large portion of the~~ that the said survey embraces about 1500 acres of the land set forth and described in the final decree of confirmation of the "Positioy Calera," as will more fully appear by reference to the said decree,

And this intervenor respectfully suggests to this Hon. Court that the survey of the lands claimed in this cause, is not in conformity with the final decree

Wherefore this intervenor prays that the survey of the lands claimed in this cause be by an order to that effect of this Hon. Court, returned by the Surveyor General of the U.S. for examination and adjudication

A. Puckard

Attorney for ~~Thomas Hope~~  
Thomas Hope  
Intervenor

State of California }  
County of Santa Barbara }

Thomas Hope the intervenor herein being duly sworn, says that he has heard read the foregoing application and knows the contents thereof and that the same is true of his own knowledge except as to the matters therein stated upon his information and belief, and as to those matters he believes it to be true

Subscribed & sworn to before me this 1<sup>st</sup> day of May 1862  
Charles Levin

his  
Thomas X Hope  
(mark)

Justice of the Peace

of the Barabara County

"No 252, C."

W. S. Dub. Comb.

South Dub. Comb.

David A. Hill  
appears

United States  
appears

Thos W. Hape  
Interview

Filed June 13, 1862

John O. Whelan  
Clerk

Petition for Return  
of Survey

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United States District Court, for the Southern  
District of the State of California

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David A Hill

vs

The United States

Rancho de la Golita

Docket No. 252

on return of survey

It is hereby agreed and stipulated by and  
between the above named claimant, and Thomas  
Hope the intervenor in this case applying for  
return of survey, that the hearing of the exceptions  
of the said intervenor shall be deferred until  
the December term of the year 1862, of the above  
named Court, and that either party shall give  
the other twenty days notice of the said hearing.  
Santa Barbara May 20<sup>th</sup> 1862; And that Daniel  
Hill may file answer, either by demur-  
ring to, replying, or accepting to the exceptions  
to be taken to be filed by Thos. Hope,  
intervenor herein, at any time be-  
fore the hearing of exceptions of inter-  
venor, if the said Hope shall file  
his exceptions to survey of the "Golita," within the time  
prescribed by rule of court.

Charles T. Arnold  
Atty for Daniel Hill  
claimant.

Albert Packard  
Atty for Thomas Hope

No. 184 #252  
U. S. Dist Court C.  
South Dist Cal.

Daniel A Hill  
~~Wm McRabbain~~

in  
United States  
North Hope Intervenor  
Sup. for Contem<sup>ce</sup>

Filed June 14/62  
John Wheeler  
Clerk

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In the District Court of the United States for the  
Southern District of California

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Daniel A. Hill  
vs  
The United States

Rancha de la Soledad  
Docket No. 252

Now comes Thomas Hays, an applicant or intervenor  
for the return of the final survey of the tract of  
land confirmed to the above named claimant, and  
excepts to the said survey, on the following grounds,

1<sup>st</sup> That the said survey embraces a portion of the  
Rancha de los Pozos, as shown by the original grant  
and final decree of this Honorable Court, confirming  
the same in case No. 184 on the Docket of this Court,  
to wit: that portion thereof of the land embraced within  
the final survey in this case, commencing at Post S.  
No. 2, and extending along the shore of the Pacific Ocean  
to the Estuary, known as, "Mascallitas", thence along the  
easterly margin of said Estuary and the creek, known  
and described as, "Mesa Ignacia", to the road that runs  
to Santa Barbara, and thence along the said road to  
its intersection with the East line of said survey.

2<sup>d</sup> That the said survey embraces within its limits  
the said tract described in the 1<sup>st</sup> ground, and which  
said tract the claimant never made any claim to  
until about the year 1858,

3<sup>d</sup> That the said survey is not in conformity with  
the decree of confirmation in this case, with the  
original grant thereof, or the petition of claimant for  
confirmation, and is at variance with the facts of  
location made by claimant in this case; in this  
that the tract claimed is bounded by the "Rancha de  
Los Pozos", and the Ridge of Hills,

4<sup>th</sup> That the easterly boundary line of the land claimed in this cause, ought not to be located east of the mouth of the Estero of "Mercallita," and ought not to pass to the eastward of the Santa Ignacia Creek.

Albert Packard

Attorney for the Intervenor

Thomas Hope

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State of California  
County of Santa Barbara

Albert Packard being duly sworn says: that he is the Attorney for Intervenor above named and that the said Intervenor, is now absent and likely to remain absent from his place of residence in this County for more than one month, and that for reason of his said absence, his oath cannot be obtained to the foregoing exceptions. Yet this affiant is informed and truly believes that the matters and things set forth in the foregoing exceptions are true

Subscribed & sworn to before me this 13<sup>th</sup> day of July 1862

Albert Packard

J. S. Thompson  
County Clerk

I hereby accept service of the foregoing Notice

Santa Barbara }  
July 13<sup>th</sup> 1862 }

Daniel A Hill

No 252 C  
W. S. Dub Court  
South Dub Cald

Daniel A Hill  
v  
The United States  
vs W Hope Intervenor

Exceptions of W. S. Hope,  
an intervenor, to Survey

Filed July 17, 1862  
John Whelan  
Clerk

Send Copy to  
Bernards atty

In the United States District Court  
Southern District for State of California

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The United States of La Golita"  
vs. District No. 252  
David A. Hill of Land Com. 520.

To Albert S. McKean, Esq.  
Attorney of Thomas Hope, intervenor herein.  
Sir:

Please to take notice that  
the claimant in this case will  
~~not~~ move this hon. court, for an order  
to dismiss & discontinue the further hearing  
and entertaining of the application of  
Thomas Hope, intervenor herein, for  
return of the survey of the tract described  
in the record herein, into this court, in  
twenty days after the service of this  
notice on you, exclusive of day of service,  
or as soon thereafter as counsel  
can be heard.

Santa Barbara, Charles Fernald  
25<sup>th</sup> June, 1862. Atty for Daniel Hill  
Claimant.

I hereby accept notice, of this motion, and acknowledge receipt of copy of this notice,

Stuta Bursum

July 21<sup>st</sup> '11

A. D. H. 2

A. Guethard

Attorney for Thana Hesper

interview herein

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I have a number  
about 125 feet long  
for Southern District  
Montgomery  
Cal

"La Goleta"

Docket No. 252.  
Sunk Com. 520

U. S. Dist. Court.

Southern District  
of Cal.

The U. S.

Daniel A. Hill

Notice of motion

Filed Aug. 9th 1862

John Wheeler  
Clerk

District Court of the United States  
Southern District of California.

THE UNITED STATES vs. DANIEL HILL.

"LA GOLETA," No. 252. Thos. W. Hope, Intervenor.

NOTICE is hereby given, that the final survey of the lands claimed by the parties to the record in this case has been returned into Court and objected to. All parties in interest in said lands are therefore hereby admonished to appear and intervene for the protection of their interests under the rules of the Court.

JOHN O. WHEELER, Clerk.

Monterey, June 30, 1862-5-3w.

SANTA CRUZ SENTINEL  
WILLOW STREET,



PRINTING OFFICE,  
SANTA CRUZ, CAL.

Santa Cruz,

1862

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M

To J. McELROY, Esq.

United States of America }  
Southern District of California }

John McElroy being duly sworn says that he is the Editor of the Santa Cruz Sentinel a newspaper published at Santa Cruz Southern District of California, and that the notice of which the annexed is a true copy was published in said newspaper for the term of Three weeks commencing on the 18<sup>th</sup> day of July. A. D. 1862, and ending on the 1<sup>st</sup> day of August A. D. 1862

John McElroy

Sworn to and Subscribed before  
me the 4<sup>th</sup> day of August 1862  
S. H. Chapman C. Clerk

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No 252, C

U. S. Dist Court  
South Dist Cal

Launt Hill

m

The United States  
The Supreme Court

of District of Publication

Filed Aug 12/82

John S. Wheeler  
Att

State of California  
County of Santa Barbara 3<sup>rd</sup> 1862

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Daniel A. Hill, being by me first duly sworn, says, that he is the claimant and owner of the Tract known as "La Golita" described in the record in this cause; that he has read the foregoing answer to the exceptions, <sup>to entries of La Golita</sup> filed herein by Thomas Hope, intervener, and knows the contents thereof, and that the matters and things stated and set forth hereinabove in his said answer are true of his own knowledge, except the matters and things therein contained concerning the purchase of "Las Positas" after the time had elapsed for filing exceptions to the same by said Hope, and as to those matters, he believes it to be true.

Daniel A. Hill  
Promtly subscribed before me  
this 19<sup>th</sup> day of Decr 1862  
John Whalen Clerk  
W. D. C. J. D. C. C.

No. 252. C.  
W. S. D. L. G.  
S. D. L. G.

David A Hill  
m  
United States  
The W Hope Interview  
"

Answer to Receipt of  
The W Hope Interview

Filed Sept 19, 1862  
Saml Whelan  
Clerk

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United States District Court - Southern  
District of California

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The United States } "La Golita"  
                              } No. 252.  
Daniel A. Hill } Land Com No. 520.

The intervention of Thomas Hope  
and the exceptions filed herein by  
him, to the survey of this tract made by  
the U.S. Surveyor General for California  
and approved by him on the sixteenth  
day of April, A. D. 1862, coming on  
to be heard before the court now  
here, and the intervenor having  
been heard by Albert Puckett  
his attorney, and claimant by Charles  
Fennell his attorney, it is now  
hereby ordered, adjudged and de-  
creed the exceptions filed herein  
by Thomas Hope intervenor to survey  
of tract known in the record as "La  
Golita", be and the same are hereby  
overruled, and said ~~and~~ dismissed and survey  
confirmed, so far as the intervention of Thomas Hope  
done in open court this second day of  
December, A. D. 1862.

Matthew M. Wright  
U. S. District Judge for Southern  
District of California

No. 252. C.

'La Galea.'

Dist Court for Cal

Samuel A Hill

vs.  
The United States.

Objections submitted by  
Shor. Hape, overruled and  
dismissed.

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Filed this 2d day  
of December ad  
1862.

John Wheeler  
Att. P. Ramirez  
Depty.

In United States District Court, Southern  
District of California.

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The United States } "La Goleta"

vs. } N<sup>o</sup>. 259.

Daniel A. Hill } Land Com. N<sup>o</sup>. 520

The intervention of Thomas Hope  
and the exceptions filed herein by him to the  
survey of this tract made by the U.S. Surveyor  
General for California, and approved by  
him on the sixteenth day of April, A. D.  
1862, coming on to be heard before the  
court now here, and the intervenor having  
been heard by Albert Buckard, his attorney  
and claimant by Charles Remond his  
attorney, and the U.S. Dist. Attorney being  
present, and assenting, it is now hereby  
ordered, adjudged and decreed by the court,  
here that the exceptions filed herein by  
Thomas Hope, intervenor, to survey of the  
tract known in the record as "La Goleta",  
be and the same are hereby overruled  
and dismissed; And it is further ordered,  
adjudged and decreed that the survey  
of said tract returned into this court, be,  
and the same is hereby approved and  
confirmed, so far as the intervention  
of Thomas Hope is concerned, or relates

thereto.

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Done in open court this 3<sup>rd</sup> day of December, A. D. 1862.

Fletcher M. Haight  
Dist<sup>t</sup> Judge of U. S.  
for Southern District  
of California -

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<sup>252</sup>  
Dist Court of the  
United States for the  
South dist of Cal. C.

The United States

<sup>vs.</sup>  
Daniel A. Hill.

No. 252.

"La Galata."

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Entered and filed  
this 3<sup>d</sup> day of  
December A.D. 1864.

John Wheeler, Clerk

P. H. P. Raming

113

deputy



In the District Court of the United  
States for the Southern District of  
California.

December Term, A.D. 1862.

Los Angeles, California, Wednesday December  
3<sup>d</sup> A.D. 1862.

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Samuel a Hall

vs.

No. 252.

Morrill & Hedges

Intervenors

Thomas Sprague was called  
and sworn as witness on behalf of the  
Intervenors, and being by me duly  
sworn, testifies as follows to wit: from page  
1 to 5 inclusive.

Ques. State your name, residence, <sup>age</sup> and occupation?

Ans. Thomas Sprague, Santa Barbara, 35 years, -  
County Surveyor & Engineer.

Ques. Do you know the tract of land called "La  
Galita," situated in the County of Santa Barbara?

Ans. I do.

Ques. Have you ever seen an approved Map  
of the Survey of those lands from the U.S.  
Surveyor's General's Office?

Ans. I have seen one of them.

Q. Have you ever re-run any exterior lines of that survey. If so, state when and which lines?

A. I have re-run the entire boundaries of the ranch at different times.

Q. I am running the lines. The Copy of the Map you have in your possession is a duplicate of the one shown you [being the one from the files of the Court]

A. It is.

Q. What is the relative position of ordinary high water mark with the lines numbered 6, 7, 8, 9, 10 and 11 of the Map?

A. All of 6, 7, 8, 9, 10 and 11, are but <sup>a</sup> little ~~above~~ <sup>below</sup> the high water mark, and some portion below the high water mark. There are two small points below the high water mark.

Q. The whole front of the lines of the ranch are below the high water mark, with the exception of these small points, and those but a little above.

Q. Did you ever make a plan of the lines of the ranch from 6 to 11 inclusive, as represented in the Map already shown, and of the true line of ordinary high water-mark contiguous; if so, when?

A. I have made a survey. The exact date of the survey I do not now recollect.

Q. Look at the Map now shown you marked  
F. P. R. filed in the Case, June 2<sup>nd</sup> 1862,  
and state where it is the plat last above  
mentioned?

A. It is.

Q. Is it a correct delineation of the ~~road~~  
lines reported to be shown?

A. It is.

Q. What do the red shore-lines represent?

A. The red-shore-lines represent the <sup>lines of the</sup> ~~claims~~ of the  
survey of the lands claimed by Morrill  
& Huse. The date of the survey was

~~Q.~~ April 24<sup>th</sup> and 1862.

Here the witness was cross-examined by Charles  
Wernald, Counsel for Claimants:

Q. Please state whether the lines run by you as  
represented in the Map are on the line of  
ordinary high water-marks?

A. As near as may be.

Q. Will you please to describe the topography  
of the shore along which the ~~lines~~ the lines  
which you are at?

A. The shore is abrupt, precipitous cliff; in some  
places <sup>in places</sup> perpendicular to the height of about one  
hundred feet.

4

Ques? What is the distance from this Cliff to the sea shore?

Ans. The sea washes directly against the foot of the cliff at high tide, at low tide it runs out and leaves a sand beach.

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PAGE 112

Ques? Will you state the distance from the foot of the cliff to the line ~~below~~ <sup>of</sup> ordinary low-water mark?

Ans. The distance varies. In some places it may not be more than one chain; in others it is more than ~~five~~ <sup>about</sup> chains. In other places it extends to ~~more~~ <sup>about</sup> ~~five~~ <sup>five</sup> chains.

Ques? How long were you occupied on the ground making the survey for the intervenors Morrill and Huse?

Ans? The whole survey occupied me for ~~me~~ about five or six days.

Ques? Did the tide touch the Cliff at any time when you were there.

Ans. It did.

Ques? Did you suspend your work during high tide and leave the ground?

Ans. Did suspend the work at high tide at an extreme point, but however did not leave the ground.

Ques? State if the tides, when you were there, were ~~ordinarily high or extraordinarily so for the season?~~ <sup>unusually</sup> ~~or~~ were they ordinary tides of the ~~season?~~

throughout the season?

Ans. They were ordinary tides of the season.

Ques? State how near the bank you established your line for the survey of Morrill's Base?

Ans. At the line of ordinary high tide as marked at the foot of the bluff or cliff.

Ques? Please state the purposes for which the intervenors Morrill & Base, used the lands surveyed ~~by~~ by you for them? (Objected to for irrelevancy.)

Ans. I do not know if ever they used the lands. For my own knowledge I do not know if ever they used the lands.

Ques? State if there were asphaltum deposits within the boundaries of the land surveyed by you? (Objected to for irrelevancy.)

Ans. There is.

Ques? Do you know if the intervenors have been engaged at various times in taking asphaltum and shipping the same? (Objected to for irrelevancy.)

Ans. I have heard say that they have, but never seen. But to my own knowledge I can not say that they have.

Ques? Does the sea, at high water, disintegrate the earth along the cliff, and cause the cliff to fall? (Objected to as above.)

Ans? It apparently does.

Ques? At what rate does this process of disintegration continue? (Objected to as above and objection sustained.)

No. 252.

U.S. Court for the  
South Dist of Cal.  
United States

<sup>vs.</sup>  
Daniel A. Hill

La Galeta.

Morrill & Hase  
Intervenors.

Testimony of Thos. Sprague.

Filed this 3d day of  
December 1886.

John C. Wheeler, Clerk  
J. H. P. Merrill

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In the District of United States for the Southern  
District of California

Daniel A. Hill

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<sup>vs.</sup>  
The United States

O. F. Morrill

Intervenor

J. M. B. A.

In this case the Rancho  
La Goleta having been confirmed to the  
claimant surveyed O. F. Morrill claims  
to intervene and ~~excepts to the survey~~  
and files the following exceptions to the  
survey.

1. That the survey improperly includes  
lands lying on the shore of the Pacific  
Ocean, between high and low water  
mark, whereas the same ought not to  
have included any lands lying below  
high water mark.
2. That the said survey does not conform  
either to the original grant or to the  
final decree of confirmation in said case  
in this to wit that it includes certain  
asphaltum banks on the shore of the Pacific  
Ocean below high water mark, whereas  
under said grant and decree, the said  
survey ought not to have included any  
lands lying below high water mark.

and ought not to have included said asphaltum banks which belong to and are the property of this intervenor under a title derived from the State of California.

3. This objection is substantially embraced in the two preceding. The confirmation to the claimant was according to his original grant and bounded on the South by the Sea Shore. This boundary would only give the claimant to high water mark and the evidence <sup>of Thomas Sprague</sup> is clear that the survey along the shore is in part and perhaps for the greater part below high water mark. <sup>This survey was made in April & summer tides may be lower</sup> There is evidence to show that the sea has been gradually encroaching on the land and that the shore at date of grant and confirmation extended farther into the sea than at present. It is not necessary to discuss these matters for the reason my opinion ~~and~~ is based upon the want of any right in the sea shore by the intervenor & not having any right title or interest in the premises he cannot object to the survey. The United States do not except and there is no reason why the government should not having any claim or interest in land covered by the sea.



The title of the Intercession is claimed to be derived from the State of California under a patent from John G. Downey, Governor dated the fourth day of October 1851 to Charles Morrill and his conveyance to the Intercession. The patent recites that the Legislature of the State of California on the twenty first day of April 1858 passed an act ~~to~~ entitled "an act to provide for the <sup>sale of</sup> reclamation of the Swamp & overflowed lands of this State", which act authorizes the location and disposal of a portion of the Swamp and overflowed lands donated to the State of California by the act of Congress and also the tide lands belonging to the State by virtue of her sovereignty." I have not been able to find any statute of the State of California authorizing the disposition of tide lands belonging to the State by virtue of her sovereignty. On the contrary the lands authorized to be sold are those donated to the State by act of Congress entitled "An act to enable the State of Arkansas and other States to reclaim the Swamp lands within their limits." The act of April 28<sup>th</sup> 1855 Section 18 provides that "The provisions of this act shall apply only to lands <sup>granted</sup> to this State by act of Congress" before recited. The statute of 1858 is additional to the act of

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1855 but ~~grants~~ does not grant any new or greater power of disposition.

#5

There is a proviso to the first section of the act of 1838 as follows " Provided that, if upon the survey of such lands any portion thereof shall be found to be lands belonging to the state by ~~virtue~~ right of her sovereignty, the moneys arising therefrom shall be paid into the Treasury of the state as other state venues."

This section provided for the payment into the Treasury of all proceeds of sale of swamps & overflowed <sup>lands</sup> to be appropriated for the reclamation of ~~such~~ said lands as the legislature may hereafter direct. Then follows the proviso which declares if in the surveys any portion may be included which belongs to the state in virtue of her sovereignty the <sup>proceeds</sup> ~~money~~ of such portion shall belong to the general revenue of the state. <sup>& not to the swamp land fund</sup> It is perfectly clear that all the acts on this subject relate to the disposition of swamp lands ~~and can in no manner~~ be applied to <sup>the sale of</sup> ~~unauthorized~~ lands ~~of~~ <sup>not</sup> covered by the sea. The proviso before alluded to gives no power and merely provides for the disposition of certain funds in a contingency which might occur. The intervention is dismissed.

Hletcher M. Wright

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# lands

no. 252, A

Opinion

Filed Aug 13. 1863

In the United States District Court  
for the Southern District of California

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Regular June Term A.D. 1862  
Hon. Fletcher M. Haight, U.S. Dist. Judge

Daniel A. Hill }  
of } No 252  
The United States }  
of } "La Golita"  
O. F. Morrill, Intervenor }

The intervention of  
O. F. Morrill, and the exceptions filed  
herein by said O. F. Morrill, to the survey of  
this tract made by the U.S. Surveyor General  
for California, and approved by him on the  
sixteenth day of April 1862; coming on to  
be heard before this Court, at the December  
Term thereof, A.D. 1862, held at the City and  
County of Los Angeles California; and the  
Intervenor having been heard by James H.  
Lander Esq., and the Claimant by Charles Fer-  
nolds Esq., and the U.S. District Attorney being  
present and assenting; and the exceptions  
of said Intervenor having been submitted  
and taken under advisement by the Court:  
It is now hereby ordered, adjudged and

decreed by the Court now here, that the exceptions filed herein by O. J. Morrill Intervenor, to the survey of the tract of lands known in the records as "La Goleta" be and the same are hereby overruled and dismissed. And it is hereby ~~further ordered, adjudged and decreed that the survey returned into this Court of said tract be and the same is hereby approved and confirmed!~~

This done in open Court this  
13<sup>th</sup> day of August <sup>October</sup> A.D. 1863. ✓

Witness My Hand &  
Judge & Court Clerk

No 252 ~~B~~ A

Uf Dist Court  
South<sup>n</sup> Dist of California

Daniel A Hill  
of  
The United States  
J. Morrill. Intervenor

Decree

Filed Oct 17 1863  
John A. Whelan  
Clerk

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In the United States District Court for the Southern  
District of California  
Term AD 1863  
Hon. Nathan W. Haigh U.S. Dist Judge

David A Hill

The United States  
Charles E. Nuss, Intervenor

Vol 253 B  
"La Goleta"

The Interventions of  
J. E. Nuss and the exceptions filed herein by said  
C. E. Nuss to the survey of this tract made by the  
U. S. Surveyor General for California and approved  
by him on the sixteenth day of April A. D. 1862, coming  
on to be heard before this Court at the December Term  
thereof A. D. 1862, held at the City & County of Los-  
Angeles California, and the intervenors having been  
heard by James H. Sander Esq. and the Claimant  
by Charles Bernard Esq. and the U. S. Dist Attorney  
Hon. D. Whiting being present and assenting, and  
the exceptions of intervenors having been submitted  
and taken under advisement by the Court. His Honor  
thereby ordered, adjudged and decreed by the Court  
now here, that the exceptions filed herein by Charles  
E. Nuss, Intervenor, to the survey of the tract  
known in the Record as "La Goleta" be and the

same are hereby overruled and dismissed. And it  
is hereby further ordered adjudged and decreed that  
the survey returned into this Court of said tract  
be and the same is hereby approved and con-  
firmed. So far as the exceptions of said lease are

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Done in open Court this 13<sup>th</sup> day of  
October  
Attest A. D. McE...

Hletcher M. Daigbt  
Judge of said Court

N<sup>o</sup> 252 B  
of Dak Comt  
South Dak Cal

David A. Hill

<sup>ms</sup>  
The United States  
Genl & Sure Intervenor

Deere

Filed Oct 13 1883  
John Whalen  
Clk

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In District Court of the United States for the  
Southern District of California

United States

vs

Daniel Hill

No. 252

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You will please to take notice  
that at the ~~present term~~ <sup>present term</sup> of said  
~~11th day of February A.D. 1864~~ <sup>opening of the court</sup> on the  
~~first day of the next special term~~ <sup>of to be</sup>  
~~held at the city of Monterey~~ <sup>Los Angeles</sup> or as soon thereafter  
as counsel can be heard, the intervenors therein to-wit  
Charles Merrill & Charles E. Wood, will apply to  
said court for an order granting them an appeal  
to the Supreme Court of the United States from  
the order of said District Court approving the  
official Survey in said cause.

Dated at San Francisco 11 Decr 1863.

To

B. C. Whiting Esqr  
Dist Attorney.

J. B. Crockett,

Atty for intervenors

+  
Chas Fernald  
Atty for Dfh -

I acknowledge service of above notice

Monterey Dec 22 1863

B. C. Whiting U.S.  
Dist. Atty. Southern  
Dist. California

N<sup>o</sup> 252  
vs  
Doubtless  
vs  
Doubtless

The United States  
vs  
Daniel Hill

Notice of intention to  
sue out appeal to Court

Filed Dec 22 1863  
John Whelan  
Clerk

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United States District Court South District of California

Daniel Atwell

vs

The United States

Chas E Huse }  
Morrell } Interveners

No 252

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It is hereby stipulated that the argument on the motions filed in the Cases of Chas E Huse and Morrell Interveners in the Case of D Atwell vs The United States for leave to appeal from the orders of said Court overruling and denying said interventions, and which were to have been heard on the 11<sup>th</sup> Day of Feb 1884 as per notice, may be continued until such day as the Court may convene during the present December Term or until the next regular June Term in Monterey. Without prejudice to any of the parties herein, and said motions to be subject only to such objections when thus heard as might be urged if argued on the said 11<sup>th</sup> Day of February

P. L. Whiting U. S.  
District Attorney  
for the Southern District  
of California

No 252  
W. Dub. Court  
South Dub. Cal.

Dr. Hill

U. States

Hunt Swirell

Interviews

Filed Feb. - 1864

John Wheeler

clerk

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In United States District Court - Southern Dist.  
of California

United States

vs.

Daniel A. Hill

"La Jolla"

Tract N<sup>o</sup>. 520.

On Interventions of  
Chas. Morris & Chas. E. House.

Intervenors move that  
this court now grant an appeal to  
the Supreme Court of the United States from  
an order of this court "approving the of-  
ficial Survey" of this tract, in said cause.  
See written notice of motion filed by  
Intervenors herein, on the 17<sup>th</sup> Dec. 1863.

Daniel A. Hill, the claim-  
ant herein objects: 1<sup>st</sup>. Because this  
court has never made an order approving  
the official survey of this tract, except so  
far as the intervention of Thomas  
Hope is concerned, which order was  
entered November 3, 1862, and from  
which no appeal has been, <sup>or can be</sup> taken,

duly entered Oct. 13, 1863, dismissed the intervention of intervenors - on the ground that they had failed to show to this court any title or "interest" in the premises, sufficient to entitle them to be heard in opposition to the survey.

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The official survey of this ~~tract~~ tract has not been set aside by this court, nor annulled, corrected, or modified, by reason of which, the Surveyor General of the United States would be required to make a new survey or correct it, and return it to this court for confirmation and approval.

It follows, therefore, that the approval of the official survey by the United States Surveyor General is still in force, and that this court is not required, or authorized by the Act of Congress of 14<sup>th</sup> June 1860, to approve the same. vide Chap. 128, Sec. 3, of Acts of 1860

In cases where a new survey be ordered by this court, the law provides for the return of the same into

This Court for "confirmation and approval." The law requires no ~~relative~~ degree of approval given in other cases.

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These proceedings are special, and the statute should be strictly followed.

In Gibbides' Exors v. The United States, 22<sup>d</sup> Howard p. 293. the Supreme Court, in discussing the general question of appeals, say: "If there be no saving in a statute the Court cannot add one on equitable grounds."

The law provides that an appeal may be allowed from an order approving a survey, <sup>only</sup> if applied for within six months &c.

Intervenors are not "parties to the record", and have no right to an appeal under the general law of Congress respecting writs of error and appeals.

More than five years have elapsed since the final decree of confirmation was entered by this Court in this cause.

N.º 520

In U.S. Dist. Court  
Southern Dist. of Cal.

The United States

vs.

Daniel A. Hill

Claimants' objections  
to the granting of an  
appeal in intervention  
of Morrill & Turner.

Filed this 22<sup>nd</sup> day of  
March 1864

Jos. O. Whelan Clerk  
by Geo. W. Phelps  
Deputy

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In the District Court of the United States for the  
Southern District of California

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David A. Hill

The United States.

Thomas W. Hope Intervenor

Notice is hereby  
given to whom it may concern that the above named  
Intervenor Thomas W. Hope intends to prosecute an appeal  
in the above entitled Cause from the Decree of said  
U. S. District Court, overruling and denying the  
objections of said Intervenor to the survey of the Rancho  
of La Galita claimed in this Cause.

And will move the said Court on the first  
day of the February Term 1865, or so soon thereafter as  
the same can be heard, for an order of appeal from  
said Decree to the Circuit Court of the United States  
for the Southern District of California.

A. Puckham  
Atty for Intervenor

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W. S. Dubouat  
South Dakota

David Hill

in

The United States

Thomas H. Hope "Interviewer"

Notice of intention to  
pursue appeal

Filed Feb 1<sup>st</sup> 1885  
D. Whelan Clk

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The United States of America, vs:

To the United States of America

by B. C. Whiting Esq. District Attorney

Daniel A. Hill, claimant

O. T. Morrill Intervenor

Chas. E. Huse Intervenor

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You are hereby cited and admonished to be and appear at a Circuit Court of the United States for the Tenth Circuit, in and for the Southern district of California, to be holden at the City of Monterey on the first Monday of April next, pursuant to an order of appeal granted on the fifteenth day of February, 1865, in open court, by the District Court of the United States for the Southern district of California in a certain suit wherein Thomas W. Hope, Intervenor in the case of The United States vs Daniel A. Hill, No. 252 on the register of land cases, is plaintiff and the above named parties <sup>are</sup> defendants on appeal, to show cause if any there be why the decision in said appeal mentioned should not be corrected and speedy justice done to the parties in that behalf.

Witness my hand and seal at Monterey this 15<sup>th</sup> day of February, A. D. 1865.

Fletcher M. Haight Seal

Judge U.S. Dist. Court, S<sup>o</sup> Dist. Calan

The within Citation was duly served on the U. S. Dist. Atty by delivering to him a copy herein in the City of Monterey Feb'y 17<sup>th</sup> A.D. 1865 at 12. M.

And the within Interveners O. F. Momin and Chas. E. Glase were duly served by depositing in the Post office a copy of the within to their address on to same, H. L. Barrows Marshall deq - pr Robert Waight Deputy Marshal

U. S. Dist Court  
S. Dist Calan

David A. Hill

The United States  
Thos. W. Wolfe Sub<sup>st</sup>

Citation

Filed Feb'y 15<sup>th</sup> 1865

John. A. Whalen  
Clerk

pr Robert Waight  
deq

In the United States District Court for the Southern  
District of California

David A. Hill

No. 252

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The United States

"La Coleta"

Thomas Hope (Intervenor)

And now at this day on application of the  
above named Intervenor, by his attorney Albert Rackard  
Esq. It is ordered that an appeal from the decree  
of said U.S. District Court, for the South District of California  
overruling and denying the exceptions to the survey of the lands  
claimed in this cause filed herein by said Intervenor  
in behalf of said Intervenor to the Circuit Court of  
the United States for the Southern District of California  
be and the same is hereby granted

Thus done and signed

this 15<sup>th</sup> day of February 1865

Fletcher M. Wright  
Judge U.S. District Court

W. D. Loomis  
S. D. Cal.

Samuel A. Hill

<sup>m</sup>  
The United States  
The Habeas Interlocutor

Order of appeal

Filed Feb 15th/65

John V. Wheeler

for Robert Maupin

Dep

U.S. District Court  
Southern Dist Cal

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PAGE 139

Daniel A. Hill

v.

The United States.

Thomas M. Hope

Intervenor

No 252

Monterey February 15<sup>th</sup> 1865

Notice is hereby given that the  
above named Intervenor intends to  
prosecute the appeal this day granted  
in his behalf to the Circuit Court of the  
United States in the above entitled cause.

To  
John D. Wheeler Esq  
Clerk U.S. Dist Court  
So Dist Cal

A. Packard  
atty for T.M. Hope

U. S. Dist Court  
So. Dist Cal

David A. Hill

v

The United States  
Thos Hope Intervenor

Notice of intention  
to prosecute appeal

Filed Feb. 15<sup>th</sup> 1865

John O. Wheeler  
clerk

Robert Haught  
clerk

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In the District Court of the United  
States for the Southern Dist. of Cal.

The United States }  
Daniel Hill } N<sup>o</sup>. 252  
"La Goleta"

252 SD  
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San Francisco Feb 7. 1845.  
To Charles Fernald Esq,  
Atty for claimant,  
Sir -

Please take  
notice that on Monday next, the 13<sup>th</sup>  
day of February instant, I will move  
at 11 o'clock A. M. or as soon there-  
after as counsel can be heard, I  
will move the Court for an order  
granting an appeal from the decree  
approving survey herein to the  
Circuit Court of the United States  
for the Tenth Circuit in behalf of  
Thomas Hope Intervenor herein,  
Yours  
A. Packard

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A. Packard  
Atty for Thomas Hope

at Fellows office  
Court Block  
Served today

U. S. Dist Court  
D. C. Dist Cal

Daniel A. Hill

The United States  
vs. W. W. Roper Sub.

Notice

Filed Feb'y 15<sup>th</sup> 1865

John. V. Wheeler  
Clerk

Robert Haight  
Dep

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United States Marshal's Office  
Northern District of California  
I hereby certify that I have served  
the within notice personally by copy on  
Charles Fernald in the city of San Francisco  
this seventh day of February 1865.

C. W. Ravel

U. S. Marshal

By Geo F. Worth

Deputy

Dated Feb'y 7<sup>th</sup> 1865

fees \$2 paid  
G.F.W.

In the District Court of the United  
States, Southern District of the State of  
California.

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The United States } "La Poleta"  
vs }  
Daniel A. Hill. } No. 520.

To John Wheeler, Esqr.

Clerk of said Court,  
and to Albert Packard, Esqr  
Att'y for Thomas Hope, Intervenor  
and to Hon. B. C. Whiting, U. S. Dist. Attorney  
for Southern District of State of Cal<sup>a</sup>  
Gentlemen:

Please to take notice  
that the undersigned has ceased to  
act as attorney on behalf of the  
claimant in this cause.

10<sup>th</sup> March. 1865.

Charles Bernard

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In U.S. Dist. Court.  
Southern District  
of California  
United States  
vs.

Daniel A. Hill

La Golata

no. 520

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Notice to Clerk,  
Dist. Attorney &c.  
by atty for claimant.

Filed March 16<sup>th</sup> 1865 -

John O'Connell clerk  
for Robert Wright  
Sep

In the United States District Court for  
the Southern District of California

The United States, appellants

vs  
Daniel A. Hill, appellee

Land Com. N<sup>o</sup> "La Goleta"

Docket. N<sup>o</sup> 252.

Now comes the claimant,  
Daniel A. Hill, and excepting to all  
the insufficiencies in Law appear-  
-ent on the face of the exceptions  
filed herein by Thomas Hope,  
intervenor, to the survey of the  
tract known as "La Goleta," de-  
-scribed in the record herein, and  
responding thereto, denies all  
and singular the matters therein  
contained.

Claimant denies 1<sup>st</sup>

"That the survey of 'La Goleta'  
as returned into this Court em-  
-braces a portion of the tract known  
as the Rancho de las Positas:

"Second:

Claimant, denies that

he never made any claim to "that portion of his said tract known as 'La Goleta', - described in the first exception of the intervenor herein: But claimant avers that he has been in possession of the same, and all of the said tract of 'La Goleta', as shown by the survey returned into his court, uninterruptedly, since the year A. D. 1845; and has always exercised dominion and ownership over, and of, the same and every part and parcel thereof: and further

That Thomas Hope, the intervenor herein, became the purchaser of the tract known as 'Las Positas' with notice of the claim, ~~and~~ <sup>and ownership</sup> rights, of claimant, Daniel A. Hill, to all of the tract known as 'La Goleta', as shown by the map, and survey returned into this court; and that intervenor purchased the tract of 'Las Positas' after the survey of the same had been made and approved by the Surveyor General of the United States for the State of California:

and after the time had elapsed for accepting to the same.

That the intervenor herein, after the purchase of the said tract of "San ~~Jose~~ Posilas," as affirmed by him, agreed with this claimant that the line established by the U.S. Surveyor General between their said tracts, of "San Posilas" and "La Golita," as shown by the maps of the same to which reference is hereby made, should, ~~eternally~~ forever be, and remain as the true boundary line of land between the said tracts.

Third:

That the survey herein is in exact conformity to the original grants and decrees of confirmation: and not as variance with any location claimant ever made of the said tract.

And claimant refers, and prays to see on the being, the record and all papers on file in this cause, and the <sup>papers on file in</sup> cause in this court entitled, The United States vs. Thomas Robbins

Doctor, h<sup>o</sup> and the papers  
 & record in this court entitled  
 The United States vs. h. A. Deu, Doct-  
 or h<sup>o</sup> claimant for  
 the Tract known as "Las Dos  
 Puellas"

252 SD

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and respondent <sup>prays</sup> that  
 the exceptions of said intervenor  
 Thomas Hope, filed to the survey  
 of the said Tract of "La Golata"  
 be dismissed, and that the  
 survey be approved, and that  
 the boundary lines set forth and  
 established by the same be  
 declared to be the true bound-  
 ary lines of said tract

I hereby certify  
 Atty for claimant



In U. S. Dist. Court - Southern Dist. State  
of Cal.

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The United States }  
vs. }  
Daniel A. Hill }  
}

On Intervention of  
Morrell & Hise.

The Plaintiff admits that  
the words Sea-shore, <sup>littus maris</sup> mentioned in  
a grant as a boundary, mean  
ordinary high-water marks.  
That this is the rule of the Civil  
as well as the Common Law.

The survey was never  
intended to extend beyond it, and  
in fact does not extend beyond  
it. And the patent when issued  
will undoubtedly contain that  
specification of boundary.

The survey is not  
impeached by Morrell and Hise.  
They only prove where the line  
was, at the period of the highest  
of Spring tides, to wit: in the month  
of March. The rule is ordinary  
high water during the summer.

Angell - Tide Waters p. 68-9<sup>th</sup> See  
Hale - de terminis maris 25 - G.

In Edward Heron's case, 15 Car. 1.  
(B. R.)

Blundell vs. Latterall - cited by  
Angell p. 70, is in point:

"By An Act of Parliament  
acting, that a certain tract of land daily  
overflowed by the sea, and to which the  
king in right of his crown claimed title, might  
be rendered productive if embanked, and  
that his majesty had consented to such  
embankment, a part of <sup>(not open sea)</sup> said tract of  
land called Lipson Bay, was granted  
to a company for that purpose.  
On one side of the bay was the northern  
side of a private estate, called Lipson  
Ground, forming an irregular di-  
chotomy, in parts perpendicular, and  
in parts stopping down to the sea-shore.  
The company in embanking the bay, made  
a drain on this side, in the same  
direction with the cliff, cutting through  
it in parts, but leaving several recesses  
of small extent between the projecting  
points. These recesses used to be over-  
spread with sea weed, and were cov-  
ered by the high water of the ordinary  
spring tides, but not by the medium  
tides. It was held, that the soil

of these recesses must be presumed to have belonged to the owner of the adjoining estate, and did not, therefore, pass to the Embankment Company, by the Act in question."

In *Storer vs. Freeman*, 6 Mass. 435 (a leading case) Parsons, C. J. said: "The sea-shore must be understood to be the margin of the sea, in its usual and ordinary state; and when the sea is full, the margin is high-water mark. The sea-shore is, therefore, all the ground between the ordinary high-water mark and low-water mark."

& currents

The ordinary tides of summer deposit masses of sand along the shore. (as was shown on the hearing) along which <sup>of claimant's tract</sup> the survey was made at ordinary tide. The high spring tides flow over against the perpendicular bluff and wash the sand away, at which time the surveys of Intervenor Morris & Huse were made. This cannot be admitted to be an impeachment of the survey of the tract of claimant made by the proper officer of government under instructions from the General Land Office to establish

the boundary along the sea shore at ordinary high water mark. Sharp angles and sinuities in the shore line, across which the chain might pass are disregarded, whether above or below high water mark, where the entire shore is of the same nature in a sand beach: and would be no good ground for rejecting a survey, or modifying it.

Now all of the ground between ordinary high and low water is the sea-shore, to which the claimant has an undisputed right of access in virtue of his grant. This is a right that is inseparable from the grant, although the title in fee <sup>to the soil</sup> between ordinary high and low water still remains in the sovereignty. Angell, Tides Waters p. 171 to 174

~~Charles Fernald~~

The state cannot, either directly or indirectly, divest him of any of these rights, except by the Constitutional power to appropriate private property for public purposes; and any act of the state, short of such an appropriation which attempts to transfer any of these rights to another without the consent of the proprietor (of adjoining land) is inoperative and void. 2<sup>d</sup> McLean Circuit Court Rep. 376: and Especially, Ashley v. E. R. Co. 5 Met. (Mass.) Rep. 368.

Charles Fernald

Dist Court of the United States  
for the Southern District of California  
United States

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vs  
Daniel Heile

It is agreed that the appeal  
from the decree of the aforesaid court  
confirming the survey in the above  
entitled cause, which appeal was taken  
by Charles Merrill & Charles E. House,  
intervenors therein & the same is  
hereby dismissed & an order to that  
effect may be entered in said cause,  
the said intervenors waiving their  
rights of appeal.

May 16<sup>th</sup> 1864

J. B. Crockett

Atty for Intervenors -

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Samuel Barber

1<sup>st</sup> Feb. 1864.

Dear Sir:

Be so good as to say to Judge Haight that any delay in our case is a very great injury to us; never the less to oblige Judge Haight we are willing to make any concession. I well know how disagreeable it is to him to make a trip to Los Angeles at this season of the year.

This application is made by Morris & Huse, I firmly believe, with no intention whatever to present an appeal to the Supreme Court; but for the purpose of enabling them to steal three or four more cargoes of asphaltum.

No stipulation is necessary as I do not think they have any right to <sup>an</sup> appeal I decline to send one: but I shall make no objection to the continuance of the

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argument of their right to  
of an appeal to oblige Judge  
Haight.

Very truly yours  
To John C. Wheeler Esq. Charles Fernald  
Montgomery.

P.S.

Can you send the final  
certificate to Beale G. S. Surveyor  
General. If you do so  
once.

C. F.

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252  
of Dahl

Dahl

A. S.

Mornell Interview

Letter of Fernald's  
relative to Stay

Piled  
John Wheeler  
Clerk